SENATE—*Thursday, September 5, 1996*

The Senate met at 9:30 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, You have created us to praise You. Forgive our pride that takes the place of praise in our hearts. So often, we want to be adequate in our own strength, to be loved by You because of our self-generated goodness and to be admired by people because of our superior performance. Pride pollutes everything; it stunts our spiritual growth, creates tension in our relationships, and makes us people difficult for You to bless. Most of all, our pride separates us from You, Dear Father. Life becomes bland, truth becomes relative, and values become vitiated. We lose that inner confidence of convictions rooted in the Bible and Your revealed truth. Now in this quiet moment, we praise You that You break the bubble of the illusion that with our own cleverness and cunning we can solve life's problems. You give us back our sense of humor so that we can laugh at ourselves for thinking that we can make it on our own. We humble ourselves before You and ask to be filled with Your Spirit. Now, with our minds and hearts firmly planted on the Rock of Ages, we greet the ambiguities of this day with the absolutes of Your truth and guidance. In the name of our Savior and Lord. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator LOTT, is recognized.

Mr. LOTT. I thank the Chair.

SCHEDULE

Mr. LOTT. For the information of all Senators, this morning the Senate will begin 30 minutes of debate on two of the appropriations conference reports. At approximately 10 a.m., following the debate, the Senate will proceed to two consecutive rollcall votes, the first vote being on the adoption of the military construction appropriations conference report, to be followed by a vote on the D.C. appropriations conference report. After those votes, the Senate will resume consideration of the VA-HUD appropriations bill.

Last night, we were able to reach an agreement on a limitation of amendments to that legislation, and I hope that any Senator with an amendment on the list will offer the amendment early today so that we can complete action on this very important appropriations bill. Rollcall votes should be expected throughout the day and into the evening, if necessary.

I do point out that there were 38 amendments on the list that was worked out last night. I presume a number of them are place holders or would be offered depending on whether other amendments are offered. I hope we will not go through that exercise too long today and we can get on with the very serious amendments and vote on them so that we can move on to other appropriations bills.

I want to emphasize beginning today that I want to work in good faith with the Democratic leadership and with all of our colleagues to complete this appropriations bill and the remaining four. But in order to do that, it is going to take real cooperation. We have a limited number of days, and already I am getting the sneaking suspicion that there is a slow rolling process already being planned by the delay, by the lack of real progress yesterday, by the number of amendments. And if that is going to be the way things are handled, it is going to leave me with no option other than to take serious actions, including forcing votes, which can be done, night sessions, even having to go into the weekend, or pulling down important bills.

Veterans and Housing and Urban Development, I do not think my colleagues on the other side of the aisle want to be held responsible for blocking or delaying unnecessarily consideration of a bill that funds the veterans programs and the HUD programs. So let us start off on a positive note. I think we struggled through that a little bit yesterday, but we are working together at this point.

We are going to continue to work to see if we can get an agreement on an Iraq resolution. There is a meeting at 10 o'clock on that. I hope we can go forward in a positive way and get our work done.

I yield the floor.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. INHOFE). Under the previous order, the leadership time is reserved.

MILITARY CONSTRUCTION APPROPRIATIONS ACT, 1997—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will turn to the consideration of the conference report accompanying H.R. 3517, which the clerk will report.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3517) making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 1997, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The Senate proceeded to consider the conference report.

(The conference report is printed in the House proceedings of the RECORD of July 30, 1996.)

The PRESIDING OFFICER. There shall now be 20 minutes of debate on the conference report equally divided in the usual form.

The Senator from Montana.

Mr. BURNS. Mr. President, I thank the Chair very much. We have been working very closely with my ranking member, Senator REID, from Nevada. He has one little duty to perform before he comes to the floor. I would hate to start without him here because we have worked so closely on this piece of legislation.

I will suggest the absence of a quorum until he arrives.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BURNS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BURNS. Mr. President, I am pleased to bring before the Senate the conference report on the military construction appropriations bill for fiscal year 1997.

Mr. President, the conference report is within the revised 602(b) budget allocation for both budget authority and outlays.

The conference agreement is $850 million over the President's budget request. This amount is the same as what will be authorized in the armed services conference report. This conference agreement is $1.2 billion under the amounts approved by the conferees last year.

Mr. President, I believe the military construction budget is not being adequately funded. We have never recovered from the reductions that were made in anticipation of the base realignments and closures.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

I want to give the Pentagon fair warning. During this period of troop reductions and base closures throughout the United States and the world, we should have been dramatically modernizing our defense infrastructure.

It is no longer business as usual. We must address these mounting deficiencies.

I would like to mention briefly some provisions in this conference agreement. First, the conferees approved $2.5 billion for implementation of the base realignment and closure decisions. This amount includes $1.2 billion for the 1995 round. There is also $776 million for environmental cleanup of these facilities. We have now funded the majority of BRAC requirements. Now we must make sure these funds are being correctly spent.

Mr. President, $4 billion of this appropriation is for housing the families of our military. This is 41 percent of our appropriation. I am happy to say this percentage is growing. It was 38 percent last year. We must address the quality of life issues we have ignored for so long.

Also, we have created a new initiative which will start to relieve some of the burden of providing adequate housing for our single soldiers. It is like Secretary Perry's efforts for family housing.

Mr. President, the conference agreement provides an additional $185 million for the National Guard. This includes additional funding for planning and design. The Army National Guard especially needs this funding to properly execute their construction program.

I am confident that the President will not veto this bill. This bill includes funding for Incirlik, Turkey, where our Air Force has been flying the mission over the northern part of Iraq. Also, there is funding for Aviano, Italy, where our Air Force and Marines fly missions over Bosnia. We must all support our troops at this critical time.

There is one issue my colleagues should be aware of. We have tied funding for the Army programs overseas to the Army National Guard. For years we have directed the Army to start supporting the Reserve components. Each year they have chosen to ignore the direction of the Senate.

Mr. President, the appropriations conferees took a strong course of action on this issue. This year we have language which directs the Army to program $75 million for the Army National Guard. Officers within the Army have suggested that it is only report language. They do not think they need to follow our direction unless it is in bill language. What they do not understand is that this body supports the citizen soldier. We know that we will call on them if we ever have to face another major conflict. The Army has not figured this out. I want to put them on record. The Army is going to have a difficult time, until they start supporting the Guard.

On a brighter note, we have included a sense of Congress which calls for the Secretary of the Army to name a new administrative facility, at Redstone Arsenal, AL, the Howell Heflin Complex. This is a small tribute to one of the great Senators of our time. I wish my friend well and hope he enjoys his coming years.

Mr. President, this is good bill. It is a bill that meets the demands of our national security interests. I urge the Senate to approve the conference action on this issue.

I now yield the floor and ask for the comments of the ranking member of this committee who has just been a joy to work with. We have worked on this a long time and, being very comfortable with the bill, I think it warrants passage. I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, it has been a pleasure to work closely with the distinguished chairman on this measure. We have had an open, bipartisan approach to the problems of family housing, Reserve and Guard forces, and the other matters in the bill. We have not had any significant disagreements. I believe that this is a good product, and I hope that the Senate will support it overwhelmingly. I thank at this time the majority staff director, Jim Morhard and his assistant Warren Johnson, for their work and cooperation with my staff, Dick D'Amato a member of the Appropriations Committee assigned to me to work on this and other appropriations matters. B.G. Wright also of the Appropriations Committee, also has made a significant contribution. I publicly commend Peter Arapis and Jerry Reed of my personal staff who have dedicated many hours to the completion of this legislation.

Mr. President, as I indicated, I am pleased to join with the distinguished chairman of the subcommittee, Senator BURNS from Montana, in presenting this conference report on military construction for fiscal year 1997 before the Senate. Mr. President, I fully support the recommendations in this bill. I compliment the chairman of the subcommittee, the distinguished Senator from Montana [Mr. BURNS], for his excellent work and that of his staff.

The chairman of the subcommittee and I have again this year, enjoyed an open and productive working relationship in bringing the recommendations in this bill to the Senate.

This bill, reported here today is $1.195 billion lower than last year's appropriated amount, and is also $50 million lower than the construction bill proposed by the House of Representatives.

Again this year, our bill strives to improve the quality of life for the Nation's military service members. This military construction bill emphasizes housing initiatives, both for families and improved housing for single service members. It provides $4.1 billion for the construction, operation, and maintenance of family housing, and to the Homeowner's Assistance Program.

I would like to be able to say that spending this $4.1 billion takes care of all the housing needs of our military, but it does not come close. We are going to have to continue working on that.

I add, Mr. President, in time of crisis, we rely heavily on the Guard and Reserve. During the gulf war crisis, we called upon the Guard and Reserve to bear more than their share of the burden, especially based on how we have funded them in the past. This year's administration request included no, I repeat, no major construction projects for the Army National Guard. This practice is completely unacceptable. Administration requests including no major construction projects for the Army Guard mandates that we seriously review any Member request for its worthiness, and there are many worthy and badly needed projects, without which, our Reserve Forces could not continue to function. It simply would be unfair to not give them some consideration simply because they have been ignored by the Pentagon.

The committee continues to support the NATO Security Investment Program, however it is concerned that member nations are not properly helping to defray construction program costs. The committee therefore urges the Secretary to seek increased contributions from our allies. A requirement for preposition exists in Southwest Asia, however, we have no treaty relationships with our allies there. Although we should proceed with such projects, we should secure long-term bilateral agreements and assume full cost-sharing arrangements prior to the initiation of any construction projects in the region.

The subcommittee has added certain needy projects to the administrations request: $850 million was added to the budget that would include $220 million for Guard and Reserve projects, and over $258 million in badly needed family housing.

I commend the chairman for taking the many requests from Senators to include projects in this bill. This is necessitated, annually, in large part, because the Department of Defense has again, as it has in the past, refused to adequately fund the construction projects for the National Guard, requiring the subcommittee to review many worthy projects suggested by Senators and the National Guard and to come up with a fair and equitable solution to the problem.

To have people come and say, and there are only just a few, come and

say, "The Pentagon did not request it, how possibly could we be seeking money here?" We are doing it because it is the right thing to do, the only thing to do, and Senator BURNS and I greatly appreciate the support the subcommittee has received in our support for the Guard and Reserve.

The administration requested only $7 million for Army National Guard construction, compared to $137 million appropriated in fiscal year 1996, and that amount was well below the previous year's $188 million appropriation. This is a 95-percent reduction in only 1 year. This type of request is incomprehensible and irresponsible. To help try to balance the scale, the subcommittee used strict criteria to evaluate many worthy projects suggested by Members, and a strong effort was made to take all Members' interest into consideration. We could not fulfill all the requests, but we did our best.

While no Senator that I am aware of has been fully satisfied, I think the result is as fair and equitable as possible, given the significant budget constraints that we are working under.

Again, I express my appreciation to the chairman of the subcommittee for his fine work on this legislation. I again ask the Senate to overwhelmingly support this legislation.

Mr. DOMENICI. The pending military construction conference agreement provides $9.982 billion in new budget authority and $3.140 in new outlays for military construction and family housing programs for the Department of Defense for fiscal year 1997.

When outlays from prior-year budget authority and other completed actions are taken into account, the outlays for the 1997 program total $10.375 billion.

This legislation provides for construction by the Department of Defense for U.S. military facilities throughout the world, and it provides for family housing for the Active Forces of each of the U.S. military services. Accordingly, it provides for important readiness and quality of life programs for our service men and women.

The conference report falls within the revised section 602(b) allocation for the Military Construction Subcommittee. I commend the distinguished subcommittee chairman, the Senator from Montana, for bringing this bill to the floor within the subcommittee's revised allocation.

The bill provides important increases over the President's request for 1997, and I urge the adoption of the conference report.

Mr. President, I ask unanimous consent that a table showing the relationship of the conference report to the subcommittee's section 602(b) allocation be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

MILITARY CONSTRUCTION SUBCOMMITTEE SPENDING TOTALS—CONFERENCE REPORT

[Fiscal year 1997, Dollars in millions]

Category	Budget authority	Outlays
Defense discretionary:		
Outlays from prior-year BA and other actions completed		7,204
H.R. 3517, conference report	9,982	3,140
Scorekeeping adjustment		
Adjusted bill total	9,982	10,344
Senate subcommittee 602(b) allocation: Defense discretionary	9,983	10,375
Adjusted bill total compared to Senate subcommittee 602(b) allocation: Defense discretionary	−1	−31

Note: Details may not add to totals due to rounding. Totals adjusted for consistency with current scorekeeping conventions.

Mr. INOUYE. Mr. President, I wanted to take just a few moments to commend Senators CONRAD BURNS and HARRY REID, the chairman and ranking member of the Military Construction Subcommittee. The conference report for the fiscal year 1997 Military Construction Appropriations Act that has been put before the Senate is an excellent product. It protects the interests of the Senate, and more importantly, it addresses the needs of our men and women in uniform.

This conference agreement represents a compromise between the House and the Senate, and I am aware that many items of interest to Members of both the House and the Senate had to be scaled back or deferred. Nonetheless, I am convinced that Chairman BURNS and Senator REID brokered a good deal for the Senate.

I understand that there are several projects which were supported by the Senate in both the appropriations and authorization processes that are funded in this conference agreement, but for which no funds are specifically authorized in the conference report filed by the Armed Services Committee. I am hopeful that legislation will be enacted by the end of this session which will clarify the position of the Congress that these programs should be considered authorized and I will work to that end.

Once again, I wanted to thank Senators BURNS and REID for their leadership on this matter and I urge all my colleagues to support this conference report.

Mr. MCCAIN. Mr. President, for several years now, I have tried to restrain Congress' propensity to add hundreds of millions of dollars of unrequested, low-priority projects to the military construction budgets. I have tried to amend the military construction bills when they come before the Senate to strike these add-ons, but I have failed. I have tried to impose reasonable criteria for evaluating Members' requests for add-ons, and although the Senate agreed to abide by these criteria, there are still projects added that do not meet the criteria.

This year, Mr. President, is no different.

Since 1990, the Congress has added more than $6 billion to the military construction accounts. That's almost $1 billion in pork-barrel spending every year. This bill increases the amount of waste by another $850 million. Where will we stop this endless pork-barrelling using taxpayers dollars?

When the Senate passed the military construction bill for fiscal year 1997, it contained $700 million in unrequested funding. The House added $900 million to the request for military construction, and I assumed that a conference agreement would probably split the difference between the bills. But I find, in reviewing this conference bill, that it contains $850 million in unrequested funding. Apparently, in the interest of protecting as many Senators' add-ons as possible, the Senate conferees decided to go more than halfway toward the House position.

Mr. President, I am amazed to find that this bill even includes an add-on for Arizona. But that add-on of $6.7 million is small potatoes compared to the magnitude of the add-ons for some States.

There were 13 States that received more than $20 million in add-ons in this bill. Of those 13 States, 6 States received more than $30 million in add-ons, 3 received more than $40 million in add-ons. And one State received a whopping $55 million in add-ons.

Mr. President, I am not going to take up the time of the Senate by listing all the add-ons in this bill. The information is there in the conference report, for those who care to review it. I will only say that I am shocked and saddened that, with the severe shortfalls in other high-priority military requirements, the Congress is wasting so much money on pork-barrel projects like these.

This is the same Congress that argued successfully for an $18 billion increase in the defense budget over the past 2 years, principally because military modernization had been cut drastically by the Clinton administration. That is why I am puzzled that we waste nearly $1 billion of this year's $11 billion add-on for military construction projects.

While the Defense authorization and appropriations bills this year provide an additional $6 or $7 billion for procurement, this amount is only about one-third of the $21 billion needed to meet General Shalikashvili's target of $60 billion per year for procurement of modern weapons systems. We still have a $14 or $15 billion shortfall in urgently needed modernization funding. Yet we are wasting $850 million on unrequested, low-priority military construction projects. It just does not make sense to me.

Mr. President, I mentioned the criteria the Senate adopted 2 years ago to evaluate Members' requests for military construction add-ons. I am somewhat gratified to learn that the close

scrutiny focused on military construction projects has succeeded in forcing at least some degree of control on the process. The majority of the projects in this bill meet four of the five criteria established 2 years ago for Senate consideration of unrequested military construction projects. The projects are: mission essential; not inconsistent with BRAC; in the FYDP; and executable in fiscal year 1997.

But none of the projects meet the fifth criterion, which requires the added funding to be offset by a reduction in some other Defense account. And five of the projects in this bill, totalling $23.7 million, are not even authorized, although I suspect political pressure will result in an authorization of each of them at some future time.

Mr. President, I know there are some very good aspects of this bill. It does provide funding for high-priority quality of life projects, including child care centers and family housing projects. It includes a provision which will give the Guard and Reserve components the opportunity to come to Congress with a long-term plan to meet their military construction requirements. For these provisions, I applaud my colleagues on the Military Construction Subcommittee.

But $850 million is a lot of taxpayer dollars to waste. How do we explain to the American people why we need $11 billion more for Defense this year, when we spend $850 million for projects that do little or nothing to contribute to our Nation's security?

I know this bill cannot now be amended, and my words will have little effect on the final vote on this bill. But I cannot stand aside and allow a bill laden with $850 million in pork-barrel spending to pass the Senate without objection. I will vote against this bill, and I will urge the President to veto this measure when it comes to his desk. And Mr. President, I will continue to fight against the stubborn congressional tradition of wasteful, pork-barrel spending.

I ask unanimous consent that a list of unauthorized projects and the States receiving the largest benefits be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Unauthorized projects in military construction conference

	Millions
Hawaii—Army aviation support facility	$5.9
Kansas—Consolidated education center	6.7
Iowa—Aircraft arresting system	1.35
Louisiana—Bachelor enlisted quarters	4.8
Mississippi—Quaywall extension	4.99
Total	23.74

States received largest share of add-ons

[In millions of dollars]

Texas	55.983
Hawaii	45.58
Nevada	40.855
Virginia	34.969
North Carolina	34.21
Florida	30.248
Montana	27.2
New Mexico	27.1
Mississippi	24.7
Georgia	24.252
Kentucky	23.0
California	22.85
Indiana	22.0

States received largest share of add-ons—Continued

[In millions of dollars]

Mr. GLENN. Mr. President, I will vote today in opposition to the military construction appropriations conference report. The conference report adds $850 million to the President's budget request. Like its authorization counterpart, virtually all of the projects added to the budget request are the result of requests made by Members of the House and Senate.

I am gratified that some discipline has been adopted in this annual process in that added projects now meet what I consider to be minimal requirements like meeting a national security requirement and being in the Pentagon's 5-year plan. Nevertheless, I cannot support a process that results in hundreds of millions of dollars being added to the military construction budget based merely on Members requesting funding for those projects.

Mr. BOND. Mr. President, as cochairman for the National Guard Caucus I rise to comment on the process of funding our Nation's military construction needs.

The Senate, in the past years, has voted to appropriate necessary military construction funds to offset the neglect of administrations in order to make sure that the defense infrastructure would be adequately funded.

The Senate this year was again forced by the Clinton administration to make sure that the defense infrastructure would be adequately funded.

Active Force infrastructure has traditionally been adequately funded with the Guard Forces traditionally underfunded. Why has it been this way, many have asked, and the answer which is whispered through the Halls of this building is that the Congressmen and Senators will take care of it, and we have and we do and we will because we care about the welfare and readiness of the National Guard and Air National Guard even if some administration officials do not.

The administration this year funded the Army Guard to the tune of $7 million, $7 million for the entire Army Guard infrastructure for all 50 States and Puerto Rico; $7 million.

For the entire Army Guard Force. If the Senators here respect our citizen soldiers, then they must rectify this shoddy treatment of those who protect us. My colleagues on the committee have done just that and they have done it with strict adherence to a rigorous set of standards for these necessary quality of life and readiness projects.

The committee considered each of the programs added to this year's military construction bill for its executability in fiscal year 1997, its being of the highest priority for the base commanders and National Guard tags, its inclusion in the FYDP, and its overall necessity to quality of life and readiness. Currently, this is the only venue we have to maintain infrastructure readiness and essential and housing projects which were designated as critical by each State's adjutant general. I urge all Senators to support the men and women of the Guard and support the Guard's ability to carry out its missions.

Mr. BURNS. Mr. President, how much time do we have remaining?

The PRESIDING OFFICER. The Senator from Montana has 4 minutes, 15 seconds remaining.

Mr. BURNS. Again, I thank my friend from Nevada for his support and contribution to this subcommittee this year. We could not have put this bill together without him and his staff. He is backed by an able staff that understands what is needed and how to get it done: Dick D'Amato, B.G. Wright, and Peter Arapis.

I also thank Jim Morhard on the committee staff, Julie Lapeyre in my office, Warren Johnson, and Mazie Mattson.

Mr. President, I know of no other further debate on this conference report. I think it is a fair and equitable conference agreement and I urge its approval by the Senate.

So, Mr. President, I urge the adoption of the conference report and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. BURNS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BURNS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BURNS. Mr. President, I understand we have about 4 minutes left on the debate on the MilCon appropriations conference report. I ask unanimous consent to yield back all remaining time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BURNS. I yield the floor.

The PRESIDING OFFICER. Under the previous order, the conference report accompanying H.R. 3517 will be laid aside.

DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1997—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous report, the Senate will now proceed to the consideration of the conference report accompanying H.R. 3845, which the clerk will report.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3845) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against revenues of said District for the fiscal year ending September 30, 1997, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The Senate proceeded to consider the conference report.

(The conference report is printed in the House proceedings of the RECORD of August 1, 1996.)

The PRESIDING OFFICER. There shall now be 10 minutes for debate on the conference report equally divided in the usual form.

The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I am pleased to bring before this body the conference report on the District of Columbia appropriations. Needless to say, the city is having difficult times, and it is important that we expeditiously dispense with the conference report.

This report does not reflect my own views in each instance, nor the individual views of the Senate conferees. It is the result of true compromise with our colleagues in the House. The conference report provides for Federal funding of slightly less than $719 million and overall spending of $5.1 billion within the District of Columbia.

I regret that, again, this year the conference report dictates to the city how it will spend its own funds on controversial social issues. The conference report continues current law on subjects of both abortion and the District's domestic partners legislation.

Unlike the Senate-passed appropriations bill, the conference report provides that no funds, Federal or local, may be used to fund abortion except in the case of rape, incest or when the life of the mother would be endangered. Likewise, no funds may be used to implement the domestic partners legislation adopted by the District 4 years ago.

I am pleased, however, that these were the only divisive issues in the conference this year and that we are bringing the conference report before the Senate in early September rather than the following April, as last year.

The major budget differences between the House and Senate bills was the inclusion in the House bill of a deficit cap of $40 million. Under the consensus budget submitted to the Congress by the council, the financial authority and the Mayor, the deficit was projected to be some $99 million out of total spending of $5.108 billion in fiscal year 1997.

The House bill permitted a deficit of only $40 million, leaving it to the city to determine where the additional savings would be found. The conference report adopts a modification of the House proposal with a deficit cap of $74 million for fiscal year 1997. This figure is roughly halfway between the House and Senate versions and represents the substantial progress toward a balanced budget that was called for in last year's legislation, establishing both the financial authority and the District's current budget process.

While not explicitly addressed in this legislation, let me state my own view that the budget which will be developed for fiscal year 1998 should also show substantial progress towards fiscal balance. While I can only speak for myself, I believe the budget deficit for fiscal year 1998 should be in the $30 million to $40 million range, not the over $90 million deficit projected in the current financial plan.

Let me briefly touch on two other issues. First, the conference report largely adopts the city's consensus budget, and the architects of that budget—the council, the financial authority and the mayor—must be commended for working together to draft it. That budget process was sometimes bumpy, but no more so than our own.

Second, while we need to achieve a balance of this budget by fiscal year 1999, that fiscal balance will be very tenuous until we provide the District with help on issues outside the jurisdiction of the Appropriations Committee. My colleagues know that we cannot balance the Federal budget in the Appropriations Committee. That committee cannot balance the District's budget for very long either.

Once we have worked with the city's elected officials and the financial authority to squeeze every last penny out of the budget, I believe we will be faced with problems in entitlements programs, such as Medicaid and pensions, that will require Federal assistance to solve.

I thank my colleagues on the committee for their cooperation. Senator KOHL, my ranking member, has been of great assistance, a great cooperator, as has Senator CAMPBELL. I deeply appreciate the guidance and support from Senator BYRD and Chairman HATFIELD. I am deeply sorry that this marks the last appropriations bill I will manage during Chairman HATFIELD's tenure. I will miss his leadership. It has been extraordinary working with him, and he has been a comfort to me when I have faced difficult issues.

Finally, I wish to recognize the excellent work of the staff of the subcommittee: Terry Sauvain of the minority and Tim Leeth of the majority. Had Tim delayed his departure to the control board a few weeks, he would have sat here and had all kinds of praise heaped upon him for his almost two decades of service to Members of both sides of the aisle. Instead, he will have to accept our thanks from afar.

Mr. President, before I conclude, let me move on to the District of Columbia and its problems. The headlines have been speaking to us daily about the difficulties. Before we recessed for August, we already recognized that the city had water problems, and we appropriated in this bill a million dollars to try to help solve that.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. JEFFORDS. Thank you, Mr. President.

Mr. KOHL. Mr. President, I yield another 2 minutes to Senator JEFFORDS.

Mr. JEFFORDS. I thank my friend. Also, I would like to mention the problems of the schools. We are well aware of them. The Senate tried to accommodate the problems with respect to the opening of schools, but we were unable to do so by the close of this last session. We are working very hard now, working with Senator KOHL and the House, to provide ways to fund the repairs to the schools without using Federal funds.

But I will also say, it is obvious we need to have the management of the school system looked at and dealt with, as we have with the city itself. Second, we have to keep them separate from school reform, which is also essential and necessary. We have set up a process for doing that. So I am hopeful by next year we will not have to stand here and defend the serious problems that we have in the D.C. school system today.

I yield the floor.

Mr. KOHL. Mr. President, I request 5 minutes.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KOHL. I thank you.

Mr. President, I rise today in support of the conference report for the fiscal year 1997 District of Columbia appropriations bill.

Mr. President, the conference report for the fiscal year 1997 District of Columbia appropriations bill includes $718 million in Federal funds and $5.02 billion in District of Columbia funds. This figure is $1 million more in Federal funds and $29 million less in District of Columbia funds than in the original Senate version of this bill.

This conference report has my signature and my vote for final passage. The District's financial situation demands as much. But I do have reservations: in particular, the inclusion of the Hose of Representatives' position on abortions and domestic partners. As you may know the Senate version of the District

of Columbia Appropriations bill, which passed unanimously, contained language allowing the city to use non-Federal dollars to fund certain abortion services and domestic partner benefits. Use of Federal moneys to provide these services was prohibited, but the District could use its own money. For its part, the House of Representatives; version of the bill prohibited the use of all funds, including District Funds, in support of these services.

We have been here before. This is not a new debate. In fact, the House position represents current law. But as a proponent of a woman's right to choose, I oppose that position both on substantive grounds and because it is too broad an incursion into home rule. On the issue of domestic partners, again we should show some measure of restraint when it comes to an issue on which the local electorate—through its duly elected officials—has spoken.

Mr. President, I compliment the chairman of the subcommittee, Senator JEFFORDS, and thank him for his hard work in representing the views of the Senate in conference. The House conferees were tough, but fair, negotiators. They, too, deserve thanks for their cooperation.

I urge my Senate colleagues to adopt the conference report on behalf of all those who visit, live, and work in the Nation's Capital.

Mr. JEFFORDS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

MILITARY CONSTRUCTION APPROPRIATIONS ACT, 1997—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

The PRESIDING OFFICER. Under the previous order, the first vote will be on the conference report accompanying H.R. 3517. The question is on agreeing to the conference report. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Oregon [Mr. HATFIELD] and the Senator from Alaska [Mr. MURKOWSKI] are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon [Mr. HATFIELD] would vote "yea."

The PRESIDING OFFICER (Mr. SMITH). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 92, nays 6, as follows:

[Rollcall Vote No. 269 Leg.]

YEAS—92

Abraham	Ashcroft	Bennett
Akaka	Baucus	Biden
Bingaman	Gorton	Mikulski
Bond	Graham	Moseley-Braun
Boxer	Gramm	Moynihan
Breaux	Grams	Murray
Bryan	Grassley	Nickles
Bumpers	Gregg	Nunn
Burns	Hatch	Pell
Byrd	Heflin	Pressler
Campbell	Helms	Pryor
Chafee	Hollings	Reid
Coats	Hutchison	Robb
Cochran	Inhofe	Rockefeller
Cohen	Inouye	Roth
Conrad	Jeffords	Santorum
Coverdell	Johnston	Sarbanes
Craig	Kassebaum	Shelby
D'Amato	Kempthorne	Simon
Daschle	Kennedy	Simpson
DeWine	Kerrey	Smith
Dodd	Kohl	Snowe
Domenici	Kyl	Specter
Dorgan	Lautenberg	Stevens
Exon	Leahy	Thomas
Faircloth	Levin	Thompson
Feingold	Lieberman	Thurmond
Feinstein	Lott	Warner
Ford	Lugar	Wellstone
Frahm	Mack	Wyden
Frist	McConnell	

NAYS—6

Bradley	Glenn	Kerry
Brown	Harkin	McCain

NOT VOTING—2

Hatfield	Murkowski

The conference report was agreed to.

DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1997—CONFERENCE REPORT

The Senate resumed consideration of the conference report.

The PRESIDING OFFICER. The question now occurs on the conference report to accompany H.R. 3845, the appropriations for the District of Columbia. The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Oregon [Mr. HATFIELD] and the Senator from Alaska [Mr. MURKOWSKI] are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon [Mr. HATFIELD] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 83, nays 15, as follows:

[Rollcall Vote No. 270 Leg.]

YEAS—83

Abraham	Coverdell	Heflin
Akaka	Craig	Hollings
Ashcroft	D'Amato	Hutchison
Bennett	Daschle	Inhofe
Biden	DeWine	Inouye
Bingaman	Dodd	Jeffords
Bond	Domenici	Johnston
Boxer	Dorgan	Kassebaum
Bradley	Exon	Kempthorne
Breaux	Feinstein	Kennedy
Bryan	Ford	Kerrey
Bumpers	Frahm	Kerry
Byrd	Frist	Kohl
Campbell	Glenn	Kyl
Chafee	Graham	Leahy
Coats	Grams	Levin
Cochran	Grassley	Lieberman
Cohen	Gregg	Lott
Conrad	Harkin	Lugar
Mack	Pell	Simon
McCain	Pressler	Simpson
McConnell	Pryor	Specter
Mikulski	Reid	Stevens
Moseley-Braun	Robb	Thompson
Moynihan	Rockefeller	Thurmond
Murray	Roth	Warner
Nickles	Santorum	Wyden
Nunn	Sarbanes	

NAYS—15

Baucus	Gorton	Shelby
Brown	Gramm	Smith
Burns	Hatch	Snowe
Faircloth	Helms	Thomas
Feingold	Lautenberg	Wellstone

NOT VOTING—2

Hatfield	Murkowski

So the conference report was agreed to.

Mr. JEFFORDS. Mr. President, I move to reconsider the vote by which the conference report was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, we are not in a quorum call, are we?

The PRESIDING OFFICER. No, we are not in a quorum call.

Mr. LOTT. Mr. President, I am glad that we have adopted those two important appropriations conference reports.

I would like for us to continue to move forward and try to make progress now on a series of amendments with regard to the VA-HUD appropriations bill.

UNANIMOUS-CONSENT AGREEMENT—CONFERENCE REPORT ON H.R. 3230

Mr. LOTT. Mr. President, with regard to the conference report to accompany the Department of Defense authorization bill, I ask unanimous consent that at 10:30 on Monday, September 9, the Senate proceed to the consideration of the conference report to accompany the Defense authorization bill, that the conference report be considered as having been read; further, that there be 4 hours for debate to be equally divided between the chairman and the ranking minority member on the Armed Services Committee with an additional 1 hour under the control of Senator JOHNSTON, with the vote to occur on the conference report at 2:15 p.m. on Tuesday, September 10.

The PRESIDING OFFICER. Is there objection?

Mr. FORD. Reserving the right to object, Mr. President.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Start at 10:30 for 4 hours on Monday?

Mr. LOTT. Yes. Actually, it is 4 hours to be equally divided with 1 hour under the control of Senator JOHNSTON, so there is a total of 5 hours. I really wonder about the need for that length

of time, and I had hoped to start earlier—9 o'clock or 9:30 or 10. But at the request of the distinguished Senator from Georgia, we are going to begin at 10:30. So, first of all, we are agreeing to more time, and I wonder about that need.

Mr. FORD. I am not worried about how the watch is made here. I am just worried about the time. So we start at 10:30. There will be 4 hours equally divided, and then an additional hour. That will be all done on Monday?

Mr. LOTT. That would all be done on Monday. That is correct.

Mr. FORD. Then we vote on Tuesday.

Mr. LOTT. That is correct.

Mr. FORD. I thank the majority leader.

Mr. LOTT. Mr. President, I would like to say that we expect to get other work done on Monday. Hopefully, we will be able to spend some time on the Interior appropriations bill, and there is still a strong likelihood or even a probability that we will have a recorded vote or votes on Monday night after 5 o'clock. I advised our conference at our policy luncheon on Wednesday that that would be my intent.

I just do not see how we can get our work done in the next 30 days if we do not have any votes late on Wednesday night, if we do not have any votes all day on Monday, if we do not have any votes on Tuesday morning. I am perfectly willing to do most of this without votes, but I have to do what is necessary to try to keep our attention and get focused on the work and try to produce results. But this is a fair agreement, and I appreciate that. That is the way we need to continue to try to work. As the Democratic leader and I have talked, we will just take it one step at a time. This is one more positive step. As to what we have to do on Monday night, that will be determined by what happens today, tonight, and in the morning. If we make progress, we have good cooperation, it may be that we will not need recorded votes on Monday night. But we will continue to work, and as soon as we make a final determination with regard to Monday night, we will notify all Senators so they can plan what time to come back in here. I have urged our colleagues to be back in here by sundown on Monday so that we can get work done. I hope that we will do that.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the majority leader? Without objection, it is so ordered.

MEASURE PLACED ON CALENDAR—S. 2053

Mr. LOTT. Mr. President, I understand there is a bill due for its second reading.

The PRESIDING OFFICER. The majority leader is correct.

The clerk will report.

The legislative clerk read as follows:

A bill (S. 2053) to strengthen narcotics control reporting requirements and to require the imposition of certain sanctions on countries that fail to take effective action against the production of and trafficking in illicit narcotics and psychotropic drugs and other controlled substances.

Mr. LOTT. I object to further proceedings on this matter at this time.

The PRESIDING OFFICER. Objection is heard.

Mr. LOTT. The bill will be placed on the calendar.

The PRESIDING OFFICER. The bill is being placed on the calendar under rule XIV. Objection is heard.

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1997

The PRESIDING OFFICER. The clerk will report H.R. 3666.

The legislative clerk read as follows:

A bill (H.R. 3666) making appropriations for the Department of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1997.

The Senate resumed consideration of the bill.

Mr. LOTT. Mr. President, one final question in that I see the leader is still here. He has an amendment at the desk, and it is obviously one that there is a great deal of interest in on all sides. I wonder if he is ready to lay down his amendment. If we could do that here in the next few minutes and get a time agreement, that would help us get moving on what obviously is an amendment with a lot of interest.

Mr. DASCHLE. Mr. President, I would not be able to lay it down until 11 o'clock, but I think I could lay it down within the next 15 minutes. I have a couple of conflicts that I need to address, but I will be ready to do that in the not too distant future.

Mr. LOTT. I believe that will be fine. I appreciate it.

Mr. President, I believe we have amendments the managers can act on in the meantime, and we will be ready to go around 11 o'clock.

Mr. BOND. Mr. President, we have made good progress on the bill so far. As the majority and minority leader discussed, we do have one major amendment, the veterans health care amendment, the veterans entitlement amendment, to be proposed by the minority leader. We were hoping to get a time agreement on that.

As I look down the list, there are a number of amendments relevant to the VA-HUD bill, and I ask Senators to come to the floor. Some of these I still hope can be worked out by agreement and taken without a vote. A couple people on our side of the aisle have suggested that they want votes but would be willing to take very short time agreements on them. For the most part, we hope to be able to finish those.

There are quite a few amendments that are not relevant to the VA-HUD bill. I hope they can be held for bills which are related to the subject matter. There are some on both sides. Nobody has a monopoly on those. But if we are to continue the very important work of the many agencies that are included in this bill, we really do need to get this measure passed, sent to conference, worked out, and sent to the President. As I have stated on previous occasions, lifting the ceiling on the Ginny Mae loans will permit the sale of mortgages from the Veterans' Administration and FHA which otherwise would come to a halt.

There is a matter, a very important matter, with continuing the availability of flood insurance that is dealt with in this measure. I urge my colleagues on both sides not to put in amendments which more appropriately belong on other measures or which are likely to lead to extensive discussions. We are open, ready for business, and we would like to get this resolved in the daylight. It would be a real pleasure to pass one in the light of day, and if we work cooperatively, we have a chance of doing that today.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. I share the goal of the Senator from Missouri to move in a well-paced way on this bill. I wonder, while we are waiting for the Democratic leader to come to offer his veterans medical care amendment, if we could have a quorum call and let us look at some of the amendments that maybe we could zip trip through once there is concurrence. Maybe while we are waiting for the Democratic leader to come we could actually dispose of some of those amendments.

Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. Mr. President, we have three amendments, I think, that have been cleared on both sides.

AMENDMENT NO. 5187

(Purpose: To amend the Housing and Community Development Act of 1974 and for other purposes)

Mr. BOND. First, I send an amendment on behalf of Senator HOLLINGS to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Missouri [Mr. BOND], for Mr. HOLLINGS, proposes an amendment numbered 5187.

Mr. BOND. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in title II of the bill, insert the following new section:

SEC. . COMMUNITY DEVELOPMENT BLOCK GRANTS.

Section 102(a)(6)(D) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(6)(D)) is amended—

(1) in clause (iv), by striking "or" at the end;

(2) in clause (v), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following new clause:

"(vi) has entered into a local cooperation agreement with a metropolitan city that received assistance under section 106 because of such classification, and has elected under paragraph (4) to have its population included with the population of the county for the purposes of qualifying as an urban county, except that to qualify as an urban county under this clause, the county must—

"(I) have a combined population of not less than 210,000, excluding any metropolitan city located in the county that is not relinquishing its metropolitan city classification, according to the 1990 decennial census of the Bureau of the Census of the Department of Commerce;

"(II) including any metropolitan cities located in the county, have had a decrease in population of 10,061 from 1992 to 1994, according to the estimates of the Bureau of the Census of the Department of Commerce; and

"(III) have had a Federal naval installation that was more than 100 years old closed by action of the Base Closure and Realignment Commission appointed for 1993 under the Base Closure and Realignment Act of 1990, directly resulting in a loss of employment by more than 7,000 Federal Government civilian employees and more than 15,000 active duty military personnel, which naval installation was located within 1 mile of an enterprise community designated by the Secretary pursuant to section 1391 of the Internal Revenue Code of 1986, which enterprise community has a population of not less than 20,000, according to the 1990 decennial census of the Bureau of the Census of the Department of Commerce.".

Mr. HOLLINGS. Mr. President, I rise to offer an amendment which will permit Charleston County and the city of North Charleston, SC, to improve coordination and to increase their capacity in building a more viable urban community. This legislation will assist both the city and county in providing affordable housing and suitable living environments and by expanding economic opportunities for a number of the county's low- to moderate-income citizens. Charleston County contains two entitled cities: the city of Charleston and the city of North Charleston. With the population of these two cities excluded, the county has too small a population to qualify for a CDBG entitlement. Two recent developments, the BRAC decision to close the Charleston Naval Base and Shipyard and the designation of an area adjacent to the city of North Charleston as an enterprise community, have increased the need for coordinated planning and development by the county and the city of North Charleston. That Charleston County is not entitled and has to compete with other communities in the State for CDBG funds has hindered the area's ability to do the meaningful long-range planning required to recover from base closure and to respond to the opportunity provided by the enterprise community designation.

The city of North Charleston has entered into a cooperative agreement with Charleston County to relinquish its entitlement to allow the county to qualify. This will not only enable the county to expand capacity building in the two neighborhoods that were designated as enterprise communities, but will enhance the capacity of the entire region to respond to the myriad problems and opportunities created by closure of the Charleston Naval Base and Shipyard. This amendment is budget neutral and breaks no new ground; it merely follows precedent set by numerous other communities across the nation that have found a cooperative, coordinated approach to community development eliminates duplication and directs more of their dollars to the intended beneficiaries. I urge its acceptance.

Mr. BOND. Mr. President, this is a measure dealing with the availability of CDBG funding in the city of Charleston. It makes changes in the boundaries of the city.

This has been cleared on both sides by the authorizing committee, and at a time when the city of Charleston once again is facing the potential disastrous impact of hurricanes, we think this is a very worthwhile change, and urge its adoption.

Ms. MIKULSKI. Mr. President, this side not only has no objection to the amendment, we concur with it. It allows Charleston County and the city of North Charleston, SC, to merge for purposes of CDBG consideration. We think it will make the agency more effective and efficient. We support the Hollings amendment and really wish the people of Charleston Godspeed as they face Hurricane Fran.

I urge the adoption of the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 5187) was agreed to.

Mr. BOND. Mr. President, I move to reconsider the vote.

Ms. MIKULSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 5188

Mr. BOND. Next, on behalf of Senator BENNETT, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Missouri [Mr. BOND], for Mr. BENNETT, proposes an amendment numbered 5188.

Mr. BOND. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 27, line 19, strike "$969,000,000" and insert "$969,464,442.

On page 29, line 5, strike the period, and insert a colon and the following: "*Provided further*, That of the total amount provided under this head, the Secretary shall provide $755,573 to the Utah Housing Finance Agency, in lieu of amounts lost to such agency in bond refinancings during 1994, for its use in accordance with the immediately preceding proviso."

Mr. BENNETT. Mr. President, in the early 1980's, a period of extraordinarily high interest rates, it was necessary for Congress to appropriate additional money to HUD for its section 8 program for new projects just then coming on line, to cover the high cost of financing. The "financing adjustment factor" or its acronym "FAF" was an additional amount of rent subsidy under the section 8 program that enabled thousands of privately owned apartments to be built and occupied by very low income families, elderly, and disabled persons.

Even with tax exempt bonds issued by State and local housing finance agencies [HFA's], interest rates were so high as to require the additional FAF subsidy. In my State of Utah, the HFA issued bonds in 1982 and 1983 to finance the FHA insured mortgage loans for 16 multifamily projects assisted with project-based section 8 rent subsidies and the extra FAF subsidy. It is clear that without FAF, the projects would not have been built and some 600 units of housing for very-low-income people would not have been available.

One of the conditions of FAF was that the HFA's had to agree to refund their bonds when interest rates fell. The purpose of the refunding was to reduce mortgage debt service paid by HUD through the extra-high rent subsidies. Here was a program designed to provide assistance while it was needed and then to end the subsidy when it was no longer needed.

The Stewart B. McKinney Homeless Assistance Act of 1988 provided that State HFA's were entitled to receive 50 percent of the savings generated by the refunding of the bonds, but the HFA's were required to use their share of the savings to provide housing assistance to persons below 50 percent of the area median income.

In 1991, HUD and the Utah HFA entered into an agreement that provided for a mechanism where HUD would

continue paying the high rent subsidies to the project owner, and for a trustee to collect the savings not needed to pay the new lower bond debt and to split it between HUD and the Utah HFA. The format of the agreement between HUD and the Utah HFA was commonly called a trustee sweep and, although it is the only agreement of its kind the Utah HFA has entered into, it was commonly used by HUD and other HFA's. The agreement between HUD and the Utah HFA provided that the HFA could be reimbursed for money it spent to assist very low income families.

The agreement between HUD and the Utah HFA also contained a clause in which both HUD and the HFA agreed to not consent to or encourage any of the project owners to refinance their mortgage held by the Utah HFA.

In 1992 and 1993, at the first date it could contractually do so, at HUD's request, the Utah Housing Finance Agency refunded its bonds and fulfilled its obligation that had been set out 10 years earlier. The stage was set for the Utah HFA to spend its own funds to help very low-income families with their housing needs, relying on the agreement with HUD that the HFA would be reimbursed for its outlay of money.

The Utah HFA, relying on its agreement with HUD, spent its own funds on CHAMP, a nationally recognized homeownership program that has enabled hundreds of very low-income families, many of them single parents, to purchase inexpensive homes with CHAMP's downpayment and closing cost assistance. These hard working, but low-paid families now have what for many is their only chance of raising their children in the stable environment of the American Dream, a single-family home. Utah HFA spent its funds with the certainty that it would be reimbursed by the FAF savings from its agreement with HUD.

In October 1994, HUD, in breach of the agreement with the Utah HFA, consented to the request of six project owners enabling them to refinance their projects. The owners obtained new mortgage loans and prepaid the Utah HFA loans in full. Five of the six developments are continuing to receive the additional FAF rent subsidy.

The owners' refinancing was only possible by maintaining the section 8 contract rents at the very high subsidy levels, including that portion which was from the FAF. The owners will maintain the same or higher monthly debt service payments, because their new loans have a lower rate than the original loans, but with a much shorter term. HUD chose not to reduce the contract rents, but instead chose to consent to the refinancing, and appears to have breached its agreements with the Utah HFA. The result of this tragedy is that the project owners will benefit from taxpayer money originally intended to finance high-interest debt, and more recently, very low-income people under the McKinney Homeless Assistance Act. The owners will enjoy the developments free from debt at about the same time the section 8 HAP contracts expire. It is possible the owners will convert the developments to market rentals at that time, and reap an extraordinary windfall at the expense of the public, as a result of HUD's decision to maintain the high contract rents allocations to the development.

Sadly, HUD could have prevented this from happening but it did not. HUD is the section 8 HAP contract administrator for the Utah projects. The Utah HFA plays no role in the HAP contracts.

The HAP contacts require HUD's prior written consent to a refinancing, and HUD, through the Denver regional office, gave that consent, and perhaps even encouraged the refinancing by entering into an amendment of the HAP contract which provides for the sharing of the contract rent savings with the owner, even though HUD agreed not to encourage or consent to a voluntary repayment.

Numerous documents, statutes, agreements, and good sense show that the owners were not entitled to these moneys. The HUD decisionmakers stood behind one phrase in the HUD 1987 statute, in the face of overwhelming conflicts with other defensible documentation. The HUD decisionmakers allowed form over substance to rule their decision.

The HAP contracts, the Utah HFA bond indentures and official statements, the agreements between the owners and the agency, the CONGRESSIONAL RECORD, FAF appropriations, and the agreement between HUD and the Utah HFA all point to the simple fact that HUD was obligated to pay contract rents only to the extent necessary to maintain the financial viability of the developments. Nothing should have convinced HUD to donate these moneys to the owners of the developments.

HUD's action in this matter frustrates the public purpose of the McKinney Act, and the original FAF appropriations.

Accordingly, I have been working with HUD to see if a solution could be arranged which satisfies all parties. Back when Secretary Cisneros came before the committee I submitted questions regarding this matter. I continued to work with HUD and the result is the amendment I am proposing today. In fact, this amendment was drafted by HUD. I have gone about resolving this matter with the utmost care, involving the all parties in what, I believe, is an equitable solution.

Mr. BOND. Mr. President, this deals with a problem the State of Utah has had, its Housing Finance Agency, with HUD. It is $755,000 that is in dispute. We believe this amendment is necessary to resolve the matter. As I understand it, HUD has no objection to this. I ask for the immediate adoption of the amendment.

Ms. MIKULSKI. Mr. President, this side has no objection to the amendment. It does correct a problem created by HUD for the State, for the Utah Housing Finance Agency. It goes back to Senator BENNETT's predecessor, Senator Garn, who was ranking on the committee. We are happy it is finally resolved, and urge adoption of the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 5188) was agreed to.

Mr. BOND. Mr. President, I move to reconsider the vote.

Ms. MIKULSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 5189

(Purpose: To prohibit the use of amounts made available under the Act to investigate or prosecute under the Fair Housing Act any otherwise lawful activity engaged in by one or more persons solely for the purpose of achieving or preventing action by a government official or entity, or a court of competent jurisdiction)

Mr. BOND. On behalf of Senator FAIRCLOTH, I send to the desk an amendment which repeats the provisions carried in last year's appropriations measures regarding free speech and the Fair Housing Act.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Missouri [Mr. BOND], for Mr. FAIRCLOTH, proposes an amendment numbered 5189.

Mr. BOND. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in title II of the bill, insert the following new section:

SEC. 2 . FAIR HOUSING AND FREE SPEECH.

None of the amounts made available under this Act may be used during fiscal year 1997 to investigate or prosecute under the Fair Housing Act any otherwise lawful activity engaged in by one or more persons, including the filing or maintaining of a nonfrivolous legal action, that is engaged in solely for the purpose of achieving or preventing action by a government official or entity, or a court of competent jurisdiction.

Mr. FAIRCLOTH. Mr. President, I rise today to offer an amendment to H.R. 3666 that will bring fairness and common sense to the way in which our Nation's housing policies are carried out. As you know Mr. President, I introduced a bill last August, the Fair Housing Reform and Freedom of Speech Act of 1995 that would overturn

the Supreme Court ruling in City of Edmonds versus Oxford House.

In that case, a home for 10 to 12 recovering addicts and alcoholics was located in a single family neighborhood. The city told Oxford House that they would have to apply for and receive zoning approval since the home would have violated the city's local zoning code that placed limits on the number of unrelated persons living together.

Rather than going through the governmental process, Oxford House filed a claim with the Department of Housing and Urban Development saying that they were above the zoning process. HUD investigated the individuals and city officials who had objected to the placement of this home. Regrettably, the Supreme Court ruled that these individuals had violated the Fair Housing Act.

In the past, HUD has prosecuted people under the Fair Housing Act who have protested group homes coming into their neighborhoods. One of the most notable of these cases was the incident involving three residents in Berkeley, CA. HUD eventually dropped their suit because of the public's outrage. HUD has told us that they have discontinued this practice. I hope they have—but this amendment makes sure that they do.

The Congress clearly intended an exemption from the Fair Housing Act regarding the number of unrelated occupants living together. In fact, the Fair Housing Act expressly authorizes "any reasonable local, State or Federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling." (Title 42, U.S. Code, Section 3607(b)(1)).

However, HUD, saying that it has authority from the Fair Housing Act, has repeatedly intimidated people in the past who spoke out with possible prosecution. HUD's actions have been blatant violations of these individuals' rights to freedom of speech. Anybody has the right to speak their mind in opposition to something and seek legal action against what they believe is an injustice. HUD is trying to use its authority as a weapon to silence legitimate free speech.

My amendment will make some delineation of the parameters of the Fair Housing Act. We need to preserve this act to prevent real discrimination in housing, but we should not be using this act to pursue agendas that silence individuals rights to free speech.

Thank you Mr. President. I urge my colleagues' support of this amendment.

Ms. MIKULSKI. Mr. President, we also concur with the amendment. I have been informed Secretary Cisneros has agreed to the amendment. Senator SARBANES, the ranking member of the Banking Committee does, and so do I, because what this does is prohibit HUD from suing people or groups protesting HUD activities. It was based on suits HUD brought against groups protesting group homes. HUD accused them of Fair Housing Act violations. It was a really needless and heavyhanded intrusion on citizens' rights to organize about their own neighborhoods, something I most enthusiastically support.

I support the Faircloth amendment and so do the appropriate people on my side of the aisle. Therefore, we urge the adoption of this amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 5189) was agreed to.

Mr. BOND. Mr. President, I move to reconsider the vote.

Ms. MIKULSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BOND. Mr. President, we have several more amendments that have come to us. We will take a few moments to discuss those. If my colleague has no further comments, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. Mr. President, I think we have the basic agreement for a time on the Daschle amendment on the VA amendment. I propose that there be 4 hours equally divided on this amendment with one-half hour on the minority side allocated to Senator BYRD, that there be no second degrees, and at the end of that time a vote occur on or in relation to the amendment.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The minority leader is recognized.

Mr. DASCHLE. Mr. President, that agreement is acceptable on this side. I think we can accommodate that schedule. I know Senator BYRD wanted to have some time, and this will accommodate his interests. So I hope that we can agree.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. NICKLES. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I just ask the managers of the bill, if we spend 4 hours on this amendment—and there are a dozen amendments pending, or something like that—it certainly is our hope we could finish the bill today. If we are going to spend 4 hours on one amendment, that does not make that look very likely. I do not understand why it would take 4 hours. I do not understand why it would take more than an hour.

Mr. DASCHLE. Mr. President, we could take 10 or 20 hours, too. We are trying to accommodate the majority. The amendment has 25 cosponsors. I cannot recall exactly how many of our cosponsors have indicated an interest in talking, but I have assurances that the Senator from West Virginia would like 30 minutes alone. We will continue to work as we did last night to come up with a finite list, but I thought it was a concession to the majority to limit this to 4 hours, 2 hours on a side.

So if that is not acceptable, we can just begin without a time agreement and maybe we can do it in less time. Maybe it will take twice as long, but that is up to the majority.

Mr. NICKLES. Also, does the request say "up to 4 hours"?

Mr. DASCHLE. We will always be able to yield back time. So that implication is always part of the agreement. But if 4 hours is unacceptable, perhaps we ought to begin the debate and see how long it takes.

Mr. President, I object to the agreement. I object to the agreement, and we will just begin.

The PRESIDING OFFICER. Objection is heard.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I was not going to object. The Senator from South Dakota can object if he wants to. I think 4 hours is too long. I think if we have an interest in passing this bill, we need to move forward on several amendments and we need to move forward expeditiously. Four hours on one amendment does not seem appropriate if that is our goal and objective to finish.

If people want to string it out, I do not doubt we could spend all day on an amendment and probably spend all day on several amendments, but that does not finish the bill and does not get the work done.

We happen to have five appropriations bills that we need to finish just through the Senate. Again, this Senator is not going to object to the request. But I think all Senators are going to have to realize, if they have an amendment on the list and they really desire to bring it up—and I know there are some amendments on there that people do not intend to offer, and I hope that is the case—we need to shorten our sights, make speeches maybe later in the evening or something, but move forward expeditiously on these amendments, vote on the amendments and dispose of them.

I shall not object to the unaminous-consent.

Mr. DASCHLE. Mr. President, I have an amendment at the desk, but I will not ask that it be read at this time. I will simply begin the debate and we will offer the amendment at a later time, several hours from now probably.

Mr. President, according to the Congressional Budget Office, approximately 2,785 children of Vietnam veterans suffer from spina bifida, a serious birth defect that requires lifelong care. That has already been established. A March report from the National Academy of Sciences suggests that a connection between these children's disabilities and their parents' exposure to agent orange in Vietnam is a very real and growing problem.

Today, along with 25 of my colleagues, I am offering an amendment to acknowledge the Federal Government's share of responsibility for these children's care. Spina bifida occurs when the spinal cord does not close fully early in pregnancy. It is a complex disability. It requires coordinated care for many medical specialists, including neurosurgeons, neurologists, orthopedists, pediatricians, internists in adult years, psychologists, physical therapists, dietitians, and social workers.

Children with spina bifida often go through a series of operations in early childhood followed by special care, therapy and treatment throughout their lives. Many are wheelchair bound. Others can walk with assistance. There is a high survival rate. But these victims of this horrendous disease face daily challenges few of us will ever fully comprehend.

Picture a 10-year-old child leaving for school in a specially equipped schoolbus, but only after first running through an obstacle course known to most of us as a house, to get from her bed to the electric wheelchair that takes her to a bathroom where she is learning to control continence through a catheter, and on through a house designed to accommodate the special needs of someone living with a disability.

During the day, this fifth grader must attend many classes with her peers but also must spend part of the day in special education classes to overcome learning disabilities that are often associated with spina bifida and to go to physical therapy to ensure continued mobility and development.

After school, the child is picked up by her mother, who had to take the afternoon off, in a special transport van to go to a hospital for her biannual checkup with a multidisciplinary team. She may have bladder therapies, a renal ultrasound or urologic tests. She may be checked for seizures or scoliosis. She and her parents will be taught self-care skills for bowel management, intermittent catheterization and intervention for urinary tract infections, all this in addition to regular pediatric checkups.

Before leaving, she is referred to her psychiatrist the following week to discuss depression and socialization issues. Her nurse asks her about her latex allergy, which is a common secondary condition, and reminds her to avoid bandages, balloons and other products containing latex.

Later, at home, the family sits down to a low-fat meal to keep weight problems at bay as she does her homework, practices transfer techniques to move her between wheelchair and bed, and finally goes to sleep.

Fortunately, these kids are tough. Depending on severity, many are able to live very full and productive lives, though not a day goes by that they are not reminded of their disability.

Mr. President, the National Academy of Sciences announced in March new findings that suggest evidence of a link between exposure to agent orange and the presence of spina bifida in Vietnam veterans' children. The report was required by the Agent Orange Act of 1991 that was Public Law 102–4.

The first National Academy of Sciences report published in 1993, as many of our colleagues recall, created a four-tiered classification system for health problems associated with agent orange exposure.

Category 1 was sufficient evidence of an association. Evidence in this category is sufficient to conclude without any question that there is a positive association.

Category 2 is the limited/suggestive evidence of association. In this category evidence suggests the association, but there is an inability to rule out, with confidence, confounding, chance or bias, so there is not unequivocal, absolute, conclusive proof that the connection exists.

Category 3 is inadequate or insufficient evidence to determine whether an association exists. That is a category where available studies are insufficient to permit a conclusion about the presence or absence of an association.

And category 4, the limited/suggestive evidence of no association whatsoever, where studies are mutually consistent in not showing a positive association between any level of exposure and the presence of a condition.

The Department of Veterans Affairs provides disability compensation to Vietnam veterans suffering from conditions in the first and second categories. The National Academy of Sciences has now placed for the first time spina bifida in the second category of diseases for which there is the limited/suggestive evidence of the association.

Mr. President, the law requires that in cases where the evidence for an association is equal to or outweighs the evidence against the association, the Secretary of Veterans Affairs resolve the benefit of the doubt in favor of the veteran and provide the disability compensation. That is consistent with the law providing presumptive disability compensation to veterans of all previous wars. The Agent Orange Act of 1991 gave the authority to the Secretary to make these decisions based upon the neutral, scientific and very respected National Academy of Science reports which are required in the law that I mentioned earlier.

This amendment is required because the Secretary does not have the authority to provide for compensation to veterans' children. While birth defects in their children has been many veterans' biggest concern, we have never before faced a situation where we now have very real, tangible evidence, based upon National Academy of Sciences' information, and the tremendous work and effort done by many others who contributed to this report. The Agent Orange Act did anticipate this situation and specifically asked the National Academy of Sciences to investigate the connection between exposure and reproductive effects and birth defects in veterans' children.

In March, I submitted for the RECORD a statement supporting these findings and raising the issues that needed to be addressed. So, as required by the 1991 law, the Department of Veterans Affairs reviewed the National Academy of Sciences report. In May, the President announced, among other things, his intention to pursue legislation that would provide an appropriate remedy for these veterans and their children.

Again, let me emphasize, in this category 2, the National Academy of Sciences has concluded that there is more evidence to suggest the connection than there is lack of evidence to suggest that there is no connection. So there is a strong degree of evidence, statistically significant scientific evidence, that has brought the National Academy of Sciences, for the first time, to the conclusion that they reached earlier this year and has brought the Secretary and the President to the conclusion they have reached.

So the time now has come, Mr. President, for us to respond, as we have responded at each and every one of the junctures that we have faced during this very difficult period for many victims of Agent Orange. This amendment addresses this situation in what I view to be a very reasonable way. It is sensitive to the needs of the children and our responsibility to them, but at the same time it is cognizant of the fact that these children are not veterans. That must be taken into account, as well.

This amendment would provide comprehensive health care, vocational rehabilitation, and a monthly stipend to eligible children. Eligibility, of course, is a very important factor to be considered here. The veteran must have served in Vietnam and must now be in a situation where they are experiencing or have clearly become victims of the spina bifida disease.

Health care would be provided by or through the Veterans' Administration. We anticipate that most of the care

would be provided via contract by experienced spina bifida care providers. It would provide for up to 4 years of vocational training, and monthly payments of $200, $700, or $1,200 would be provided, depending on the level of disability. The proposal reflects months of efforts by the administration, by others, including Senators KERREY and ROCKEFELLER, Congressman LANE EVANS, veterans service organizations, and groups representing persons with spina bifida.

It is fully offset with a noncontroversial provision included in both the Democratic and Republican reconciliation bills last year. It requires that veterans wishing to file liability claims against the VA show negligence, as is done in the private sector, to be entitled to benefits for whatever claims may be derived as a result of the filing by the veteran. Currently, a veteran may file for service connection for any injury occurring in a VA facility without showing whether it resulted from negligence or an accident. So, both the budgets of the Republicans and the Democrats included a provision to clarify the responsibility of the VA in cases of claims involving veterans who file that may not at all be related to negligence on the part of the VA. That clarification creates a surplus from which part of the funds to be paid out in this amendment will be derived.

Savings from the provision come from averting future cases—no benefits are cut. Excess savings are directed to deficit reduction, allowing the VA and the Veterans' Affairs Committee to count these savings toward future responsibilities in the next reconciliation bill.

Mr. President, the VA-HUD appropriations bill is certainly the most appropriate vehicle for this, 20 years later. It seems to me that after every one of the debates and all of the cases that we have had to make on this floor and in the House of Representatives on behalf of veterans who have been exposed to an unusual set of circumstances that go all the way back to the early 1970's, where mysterious diseases have occurred and ultimately have been found to be related to their exposure in Vietnam—obviously, each and every one of those cases involving yet additional evidence has led to a debate that dealt with the appropriate way with which to respond to this additional evidence. We now have the evidence of yet another unfortunate effect of that military service. We have the evidence. We have the law on our side. And now we have the appropriate solution.

Given the limited amount of time left this year and the proposal by the majority leader for moving the schedule between now and the end of this month, there is likely no other opportunity for us to address this issue in the remaining days of this legislative session.

Mr. President, some would argue that we should not legislate on an appropriations bill, but they are oftentimes the ones who have supported legislation on an appropriations bill on prior occasions during this Congress. In fact, on March 16, 1995, the vote was 42–57 to allow legislating on an appropriations bill. On that day, the practice became something that would now be considered to be appropriate, given the circumstances of that vote and the ruling by the Chair and the commitment on the part of the body to overrule the Chair on that occasion. So the precedent has been set. Legislating on appropriations is now something that is not out of order, and no points of order can be brought on that particular issue.

This amendment, Mr. President, has very strong support from the American Legion, from the Veterans of Foreign Wars, from the Vietnam Veterans of America, from a real leader in this whole effort now for almost 25 years, Adm. Elmo Zumwalt—who has probably experienced the effects of agent orange on his family more graphically and unfortunately than perhaps anybody else in the country, given the fact that his son was exposed and died of his exposure to agent orange and his grandson is suffering from a learning disability they believe to be related to his son's exposure—the Spina Bifida Association of America, the Consortium of Citizens with Disabilities, the American Association of University Affiliated Programs for Persons with Developmental Disabilities, and, of course, the administration.

Mr. President, we have to make a commitment to these children. They may not be large in number, but those 2,000 children are every bit as much victims of those circumstances faced by our soldiers in Vietnam as the soldiers were themselves. We placed their parents, men and women, in harm's way in service to their country. We asked them to risk their lives and their health so that others could remain free. We did not, however, ask them to give their children's lives and health. We told them that we would take care of them and their families when they return, whether they were injured or not. Some of those injuries were immediately apparent, but others have revealed themselves over time. We bear the responsibility for the consequences of our actions and our policies, for the injuries suffered by those veterans, even those unforeseen, and even those in their children. This amendment does it as best we can under these circumstances. I urge its adoption.

I yield the floor.

Mr. BOND. Mr. President, before the minority leader leaves, there are a number of things I would like to clarify with him. What is the basis of the number of children who have spina bifida, who are children or offspring—and I suppose now many are grown into adulthood—what is the basis of that number?

Mr. DASCHLE. The basis of the number is simply the number we have been able to calculate of those children of agent orange veterans who were exposed to agent orange and who are now victims of spina bifida. So you have a very limited population. That population is first limited by the number of Vietnam veterans in Vietnam exposed to agent orange and, second, to those children of veterans who fall into that category.

Mr. BOND. They have not actually counted this number. This is an estimate, is it not?

Mr. DASCHLE. That is as hard a count as the VA currently has.

Mr. BOND. I understand this is just an estimate based on an assumption from a study that if there is a connection, this number of offspring of veterans would have spina bifida, is that correct?

Mr. DASCHLE. I am told by staff that this is the best estimate the Congressional Budget Office has been able to derive in consultation with the Department of Veterans Affairs.

Mr. BOND. But it is an estimate?

Mr. DASCHLE. It is an estimate.

Mr. BOND. Based on a study of a small number of people where there were slightly larger incidence of spina bifida in this study than in the normal population, is that correct?

Mr. DASCHLE. That is not correct. The distinguished chairman of the committee misstates, I think, the report by the National Academy of Sciences. The National Academy of Sciences has indicated that, in the category 2 determination, there is a greater association of spina bifida victims in cases involving veterans affected by agent orange than in the nonexposed population. That is, there is a greater likelihood that spina bifida has occurred as a result of that exposure than there is not.

Mr. BOND. That is an estimate based on one study. You are extrapolating from that study?

Mr. DASCHLE. Well, the law requires us to base it on the National Academy of Sciences' report, which is based on several studies. The National Academy of Sciences is required, under the law of 1991, to review the scientific literature and evidence to provide us with an assessment of the health-related difficulties that may be in evidence as a result of exposure in Vietnam, including those especially related to children. In accordance with the law, the National Academy of Sciences has now said that spina bifida is one disease where a clear association can be drawn.

In working with the National Academy of Sciences, the Congressional Budget Office, and the VA, there has been an estimate provided, for budgetary purposes, of the number of children who would be directly affected.

That estimate is the one I gave earlier. That is only an estimate, but it is the best estimate, given the circumstances and the studies that have now been done.

I don't believe it is a very significant matter for us to be debating the question as to whether it is 2,500, or 2,800, or 3,200. The estimate was made the way CBO estimates are normally made. The real question is: What do you do when you have a veteran exposed to agent orange, who now has a child with spina bifida? What the law says is that we give the veteran and his or her family the benefit of the doubt. In following through with the law, the Department of Veterans Affairs has done just that.

Mr. BOND. Well, Mr. President, I might say to the distinguished minority leader, this is one of the problems we get when there is a legislative matter on which there have been no hearings in the Senate. We are attempting to determine the basis of that assumption here on the floor of the Senate.

This should properly be done in a Veterans' Affairs Committee hearing. As I understand what the minority leader says in his arguments—and none of us have any question about the pain and difficulty that a family with a child born with spina bifida goes through. What we are asking is whether there is a reasonable basis in fact. Now, as I understand it, all of these assumptions are based on something called the ranch-hand study, is that correct?

Mr. DASCHLE. That is not correct.

Mr. BOND. What is the basis of it then, the study, the basis of the assumptions that you are making?

Mr. DASCHLE. The basis of the assumptions is, as I said earlier, that the law requires the National Academy of Sciences to review all of the outstanding information, all of the scientific data that is available currently, including but not limited to the Ranch Hand study, assess that data and make a determination based upon that assessment as to whether an association exists. By law, they are required to do that. By law, they have.

Having done that, by law, the Secretary of Veterans Affairs, the President, and 26 of us in the Senate—as well as more in the House—are now responding. The law required that we give the benefit of the doubt to the veteran. Now, there have been those who have historically opposed that presumptive disability compensation in the law. But it is the law. What we are now saying is that the law must extend to the children, as it has been extended to agent orange victims in the past, over the objections, I might add, of a few of my colleagues. Again, Public Law 102-4 has been passed; it is the law, and it is our responsibility to live up to our commitments.

I might also add, in response to the distinguished chairman's comment about a hearing, the National Academy of Sciences' report linking agent orange exposure to spina bifida was issued in March. The President announced his commitment to a legislative solution in May. The request for committee hearings on the NAS findings was issued 2½ months ago and was never answered—over 2½ months ago. We never had any commitment to a hearing. Now, there is a hearing scheduled for sometime this month, but not on the exploration of issues dealing with this amendment. There has been ample time and notification to deal with this issue. There has been absolutely no response.

I know the distinguished Senator from Wyoming has a very busy schedule, and I don't, in any way, imply that he is not interested and has not been personally kind to me in many of the requests that I have made of him. But on this issue I think the record speaks for itself. There has not been committee attention given to this issue this entire year. Now, suddenly scheduling an unrelated hearing—unrelated hearing—2 weeks before adjournment is not going to allow us to address this issue. We know what the law says, and we know what the National Academy of Sciences' report has concluded. We know that there is an association.

All we are simply doing here is saying let's make sure that the VA has the ability to follow through with what the law requires in providing the benefits to veterans and their families under these very, very difficult circumstances, albeit very limited, perhaps to as few as 2,500 cases.

I yield the floor.

Mr. BOND. Mr. President, let me ask the minority leader when the legislation to provide this was introduced. When did you introduce legislation to provide these benefits?

Mr. DASCHLE. Mr. President, we introduced the legislation this summer, sometime in July.

Mr. BOND. Well, since we went out of session in August, and it was introduced in the latter part of July, it would not be unreasonable that legislative hearings could not be held on a bill which had not been introduced, is it?

Mr. DASCHLE. Well, Mr. President, I just say that, obviously, you don't need a bill to hold hearings on something that was already announced all the way back last March. Last March, the National Academy of Sciences made their announcement and the Secretary and the President made their decisions in May. I would think that alone would trigger hearings and some response on the part of the Senate Veterans' Affairs Committee. That was not done.

So, obviously, our only recourse was to follow through with the legislation that we introduced.

Mr. SIMPSON. Mr. President, I will have further remarks later. But since the distinguished minority leader is here, I will say that I personally know of his deep, deep interest in agent orange issues. The Senator from South Dakota and I have been bandying that about for many a year. We will continue to do so, because I continue to insist—and the law insists—that we stick with sound medical and scientific evidence, period.

We do not deal with these issues on the basis of emotion or fear. This makes it very difficult because there is no sound medical or scientific evidence that dioxin does anything related to birth defects except for one study of a highly exposed group called the "ranch-hand study."

Remember, too, that there was a civil suit against the producers and manufacturers of herbicides containing dioxin. It was to be the greatest class action of all time. It was to destroy huge corporations in America and bring them to their knees for producing this substance. What happened to that suit? It was settled for less than $200 million. The judge recommended that the plaintiffs settle because there wouldn't be any way they could prove through the testimony what they had to prove to show sound medical and scientific evidence linking dioxin to what had happened to the plaintiff class. They settled for an amount that would amount to a few thousand dollars each for members of the class, perhaps $6,000, $7,000, or $8,000 each. And that settlement really was the beginning of what has come to pass with regard to an issue that never seems to go away.

But I commend my friend, TOM DASCHLE. He is a fighter for veterans. I am a veteran, too. I do not enjoy getting into these things. I chair the Veterans' Affairs Committee.

But to my knowledge there has never been a request for a hearing on this bill because this bill didn't come before the U.S. Senate until July 29, and we went out days after that. I do not hold many hearings on bills that I do not have before me. This bill was presented July 29.

The amendment speaks of the law and what we do to follow the law. The law requires us to say, for each disease reviewed by the Academy, "the extent that available scientific data permit meaningful determinations, A, whether a statistical association with herbicide exposure exists taking into account the strength"—the word is "strength"—"of the scientific evidence of the appropriateness of the statistical and epidemiological method used to detect association."

There is no "strength" in the report that the minority leader cites. It was a subject of "bias, confusion, and confounding," according to the Institute of Medicine. And I shall quote that later in my remarks.

The second part of it was the increased risk of the disease among those

exposed to herbicide during service in the Republic of Vietnam during the Vietnam era; and, C, "whether there exists a plausible biological mechanism or other evidence of a causal relationship between herbicide exposure and the disease."

That is the law. So it was not something that the Veterans' Affairs Committee was escaping. But I certainly wanted the record to be so totally clear on what the subject is because there is no solid, strong data to support any plausible biological mechanism.

I have cited the law. I shall have more to say later. But this is the first time—I hope the leader will listen to my remarks. And I see the ranking member of the Veterans' Affairs Committee is on the floor. I hope that he will become involved in the debate, if that is appropriate, and I think it is. This will be the very first time that we have ever extended any form of entitlement to a dependent class based on the health of the dependant, rather than the disability or death of the parent. I have no idea where this precedent would take us, but I can tell you that in our reconciliation instructions there are not many places to get the funding needed to pay for it.

So I hope that every single Member who is sponsoring this amendment will tell us where we are going to get the money because we are already committed to using the Gardner decision money for other purposes. I hope that will be heard again and again and again as we get into talking about reprogramming or doing this, or doing that—that we have allocated the Gardner decision money. Gardner was a decision which could be described by a nonlawyer as "bone headed." Nevertheless, we will correct that, and we have allocated those resources. They are gone.

So if this passes, and the Veterans' Committee is then called upon to meet it's reconciliation instructions, then I am going to have to, as chairman and with my good colleague from West Virginia as ranking, sit down and decide where we are going to get the money. I know there will be an argument about reprogramming and stuff that no one will understand. But that is the issue. That is one of the issues.

The other issue is when you link the word "veteran" and innocent, disabled children you have to wade through a lot of emotion as well as facts. They have linked those words here. And it will be my purpose to try to show that the people who were in Vietnam and exposed were treated very fairly and always on the basis of sound medical and scientific evidence.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, going back to the basic questions and assumptions, again I note the difficulty we have as we are asked on an appropriations bill to approve legislation to establish a new entitlement program.

Did I understand the minority leader to say that he believes it is entirely appropriate for an appropriations bill to include a new entitlement program which has not been the subject of hearings in an authorizing committee, and which the chairman of the authorizing committee opposes on an appropriations bill? Is this the new procedure we follow?

Mr. DASCHLE. Mr. President, I remind my dear friend that he voted to cause this to be the new procedure in March 1995. He voted to overrule the Chair when the Chair ruled that you could not legislate on an appropriations bill. He was one of those who said no; that we think now that appropriations bills are appropriate vehicles with which to legislate. So he set the precedent. We are simply saying we are willing to live now with that precedent. With respect to this case, I thank him for doing so. But he was the one who did it. I do not think this is necessarily a good practice. But in this case I am very grateful to him for having voted for it so I can offer this amendment and not be called on a point of order.

Mr. BOND. Mr. President, there will be a point of order. Who knows? There may be several of them.

But let me ask the minority leader if he does not agree that there are instances of legislation on appropriations bills where the authorizing committee has agreed that it is appropriate to make changes which could not be made in the normal course of business and whether it has not been the agreement of the leadership that on this appropriations cycle we would only include legislation which had the approval of the authorizing committees? Was the minority leader not involved in that leadership discussion?

Mr. DASCHLE. I was certainly not involved in any discussion of that kind. That is news to me.

Mr. BOND. Mr. President, I am sorry that the word has not gotten around. I was under the impression that the full leadership of this body had said that we were not going to attempt a broad range of authorizing activities where the authorizing committee objected. Certainly in this instance I think there are many questions which legitimately should be resolved before the authorizing committee.

I wonder if the minority leader is familiar with the testimony which was produced in the House by the principal investigator on the one study, a "ranch-hand study," which examined the possibility of a link between dioxin and offspring with spina bifida, and the fact this investigator testified before the House appropriations committee concluded in his testimony by saying that "The Institute of Medicine has recently interpreted available evidence on spina bifida and exposure to herbicide as 'suggestive of an association' but 'limited because chance bias and confounding could not be ruled out with confidence' the results of our study of ranch hand veterans and comparisons were apparently important to the Institute of Medicine in reaching their conclusion. However, it is my opinion that the accumulated evidence does not yet establish that there is a cause-and-effect relationship between herbicide exposure and spina bifida today."

Is the Senator familiar with that testimony?

Mr. DASCHLE. I sure am. I appreciate the fact that the Senator from Missouri has raised the question because it confirms really what the National Academy of Sciences also says. It says that the evidence today does not suggest a direct, unequivocal cause-and-effect relationship—and the law specifically does not require one. All the National Academy of Sciences says is that there is more evidence to suggest that there is a relationship than there is evidence to suggest that there is not.

The National Academy of Sciences is that body to which we turn for the best assessment as to what the relationship is so that the Secretary and we may determine what our actions ought to be based upon the available scientific data. Based upon that and only that, we are concluding once more, as we have done on so many occasions, that the presumption must go to the veteran—not to the Government, not to the chemical companies, not to anybody else but to the veteran.

We have to assume that if there is some doubt and if the weight of evidence suggests that there is more data in favor of the relationship than there is not, the benefit of the doubt ought to go to the veteran and his family. We have done that on compensation. We have done that on medical care. And now we are doing it on a very narrow focus: spina bifida today in children of victims of agent orange in the first place.

That is what we are saying. As the Senator from Missouri knows, we debate the same issue with respect to tobacco constantly—you have Senators here who raise the issue of tobacco, and there is a debate about how much data suggests a direct link. But you still have companies that suggest there is no link. I am one who does not agree with that. But yet we base our policy on the linkage that exists, the overwhelming evidence that does exist that there is a connection between exposure and a disease. So we are doing now with agent orange once more—providing a link based upon the scientific link that we have described in the law itself and that is supported by evidence from the Centers for Disease Control

studies, the ranch hand study, and other evidence.

Mr. BOND. Mr. President, the legal link is merely that there are suggestions, there is not evidence, and this is one of the facts that would be brought out were there to be a hearing. Perhaps the minority leader could tell us what kind of services the potential beneficiaries of this amendment are now receiving. Are they now receiving federally supported care? Are they receiving privately supported care?

Mr. DASCHLE. I can tell the Senator from Missouri that they are not receiving any assistance today from the VA.

Mr. BOND. That is not the question. Are they receiving Federal assistance in any form?

Mr. DASCHLE. That would depend, of course, on what their circumstances are. If they are Medicaid eligible, they might be eligible for a small amount of assistance in health from Medicaid, but there is virtually no assistance, as the Senator knows, through Medicaid for the number of different obstacles that I described in my earlier remarks that a child faces as they have to address the many complications outside of just the health complications for which they must endure every day. There is no assistance there.

So I cannot tell the Senator today how much Medicaid assistance they may be getting, how much assistance they may be getting through AFDC. That is not the issue. The issue is, what is the VA doing? And the answer to that question is zero, nothing. They cannot do anything. That is the purpose of this amendment.

Mr. BOND. Mr. President, I think we have now seen why this is such a difficult question, because there is no arguing with the fact that individuals suffering from disabling diseases, particularly such as spina bifida, which is a congenital birth defect, which, in most severe cases, can cause paralysis, deserve our compassion. There are some studies underway which have shown that one of the causes of spina bifida is a lack of folic acid. This is a disease, this is a defect which deserves our greatest attention because it is a debilitating, truly awful disability, and the compassion with which the minority leader speaks is justifiable.

We all have compassion for these people, but we are considering an appropriations bill today. It is the most tortuous reasoning to say, when the minority leader has waited until July 29 to introduce a piece of legislation, and then without hearings in the relevant authorizing committee expects without the hearings and over the objection of the authorizing committee which wishes to explore what is clearly questionable scientific evidence on which any findings should be based, that this should be put in an appropriations bill. This would be an entitlement program stuck on an appropriations bill. As the chairman of the Veterans Committee has already pointed out, the so-called offset has already been used for the entitlement.

The Senate Veterans' Affairs Committee marked up a bill just prior to the August recess. No Member raised the issue and, as I said, the Senate Veterans Affairs Committee has held no hearings on it.

There are many issues which need to be considered regarding the provision of benefits to children with spina bifida. They have not been discussed and debated in a normal legislative process. A view expressed by the Disabled American Veterans executive director, David Gorman, in a May 1996 letter to the VA Secretary said:

> Because the basis of [these children's] entitlement is dissimilar to both the conventional direct and derivative eligibility for VA programs, benefits for them would appear to be beyond the parameters of traditional VA benefits, and more properly under the scope of other compensatory programs. Benefits for these children might be more appropriately included under authority and appropriations for military claims.

Similarly, the Vietnam Veterans of America wrote to the Secretary in April stating:

> We urge you to specifically request the VA task force seek outside expertise from both governmental and nongovernmental entities on these issues. VVA aims to ensure that the appropriate questions are being considered and addressed by policymakers in the VA and Congress.

The Vietnam Veterans Association raised a number of questions which need answering such as how many veterans' families are affected by spina bifida. We have only an estimate based on a flawed study which led to the assumption for the numbers which the minority leader gave. And the minority leader has been unable to tell us what governmental or nongovernmental services might already be available to these veterans and families and what agencies should be tasked with providing health care and compensation.

The Veterans' Administration does not even know how many offspring of veterans of Vietnam are actually affected by this terrible disease, their ages, their degree of disability, or the extent to which they are already receiving Federal assistance, nor does the VA have any firm estimate on the cost of care and compensation.

These are very important issues. These are truly critically important issues to the families affected. They deserve the attention and deliberation of this body but, I suggest, through the normal legislative process. The views of the veterans service organizations certainly should be taken into consideration on this important issue. Their views—and there are views on both sides—deserve the proper forum of hearings in the authorizing committee. As I noted, some of the organizations do support and some do not support the Daschle amendment.

There are much greater problems with this, and the minority leader brushed them off. But the amendment sets several precedents. First, to my knowledge, expanding entitlements on an appropriations bill has not been done—to my knowledge.

If there is ever an instance in which the American people can see why the Federal Government is spinning out of control, it is when on the basis of limited scientific evidence, not hard scientific evidence, without hearings, without legislative consideration of all points of view, without even knowing how many people are affected and what other benefits are available, a brandnew entitlement program is set up; it is set in motion without consideration of its impact.

When young people ask us how did the Federal Government spending get out of control, this is probably one small example. It is an example, where there are people who have a severe birth defect. We are concerned about them. But we are setting up a Government program without reliable scientific knowledge on what the cause is or how it is going to be dealt with. Are we dealing with all of the children of veterans who deserve this kind of help? What about the children of gulf war veterans who suffer from heart-wrenching disabilities, possibly as a result of their parents' service? This amendment opens up a whole host of questions which deserve to be considered through the normal legislative process.

But let us be clear about the scientific basis. Has there been a scientifically established link between exposure to agent orange and spina bifida in offspring? The answer is no. There has been only "limited/suggestive evidence" of an association based on a single study. The author of that study says: Do not rely on it. The cause of spina bifida is unknown. Work is going forward on the folic acid approach.

The VA's task force report on agent orange, issued in May in response to the National Academy of Sciences/Institute of Medicine update on agent orange, said "Most of the studies cited did not show statistically significant differences. Notwithstanding these scientific questions, sufficient data exist of a possible association that the task force concluded that spina bifida meets the liberal standards set forth in Public Law 102–4," the Agent Orange Act of 1991.

The task force report also said:

> The Task Force believes the legal standard governing the finding of a "positive association" under P.L. 102–4 is an imperfect framework for analyzing the relevant scientific evidence and, further, raises a risk that VA's findings of a "positive association" may be misinterpreted to mean more than they do. The Task Force is concerned that VA's finding of a "positive association" under the liberal standard of P.L. 102–4 may be misconstrued as reflecting a scientific judgment that a causal association exists between herbicide exposure and a particular disease. The

Task Force emphasizes that its conclusions made for the limited purposes of P.L. 102-4 do not reflect a judgment that a particular health outcome has been shown to be caused by, or in some cases even definitely associated with, herbicide exposure under the standards ordinarily governing such conclusions for purposes of scientific inquiry and medical care.

The NAS looked at one study referred to as the "Ranch Hand" study. The author of this so-called Ranch Hand study said his own findings did not support a conclusion of linkage between herbicide and spina bifida. He said before a House hearing earlier this year: "It is my opinion that the accumulated evidence does not yet establish that there is a cause-and-effect relationship between herbicide exposure and spina bifida." The NAS noted that the studies relative to spina bifida had "methodological limitations such as small sample size and possible recall bias" which mean that further study is required.

And finally, there is at least one study which would seem to contradict an association between herbicide exposure and spina bifida. An herbicide production plant exploded in the town of Seveso, Italy, with residents exposed to substantial quantities of herbicide. A study on the frequency of birth defects in Seveso failed to demonstrate any increased risk of birth defects.

Let us be clear about the impact of this amendment on other veterans entitlements. Because the so-called Gardner decision is being used to offset this new entitlement, the effect is that the Veterans' Affairs Committee, in meeting its reconciliation instructions next year, will be forced to cut veterans entitlements in other areas to pay for this entitlement.

I should also add that the benefits which would be authorized to veterans' offspring in some cases would exceed compensation benefits currently provided to service-connected veterans. One must question whether this is fair and appropriate.

And finally, Mr. President, while the costs of compensation would be offset in this amendment by reducing benefits related to the "Gardner decision," there is no provision to cover medical costs. VA would be required to provide comprehensive health care benefits—at an estimated cost of at least $14 million a year. VA would have to absorb these additional costs—at a time when VA's medical care budget, as requested by the President and recommended by the committee, is estimated to cover only those veterans currently served by the VA medical system. We would have to take away health care from those who are already served to meet these new benefits.

It seems to me, to expand medical benefits to an additional population will mean the care of those veterans—the vast majority of whom are service-connected disabled or very low income—will be put at risk.

And I should also add that the medical benefits which would be authorized are more generous that VA's current authorities for medical care to veterans. These issues deserve close study and debate. That, I think, can only occur in the authorizing committee in an appropriate legislative consideration.

I think it is highly inappropriate to play election year politics with such an important issue as this one. I think we have normal legislative procedures which should be followed to determine whether there is any scientific evidence suggesting that we should provide this entitlement, this expanded entitlement. Trying to place it on an appropriations measure is, I think, inappropriate and totally unwarranted.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER (Mr. COVERDELL). The Chair recognizes the minority leader.

Mr. DASCHLE. I will be very brief because I note the distinguished ranking member of the Veterans' Affairs Committee has been here for some time and wants to be heard on the matter. Let me just respond to three issues raised by the distinguished Senator from Missouri.

First of all, as to the matter of the offset, let me emphasize, Gardner has not been used. Gardner has not been used. That is, the offset has not been allocated. The reason it has not been allocated is that we have not passed a reconciliation bill. No reconciliation bill has passed which delineates its usage. So, clearly, that funding has not been allocated. It is available. I do not think there is any question about that. I ask my colleagues to show me where, in what reconciliation bill, we have delineated the utilization of Gardner.

Second, let us not debate Ranch Hand all over again. The Ranch Hand Study and many other studies were debated, and we made our decisions based upon the evidence available in 1991. We passed the Agent Orange Act overwhelmingly, virtually unanimously, in 1991. That battle was fought 5 years ago—beginning even longer ago. That law, now on the books 5 years, simply says when there is a positive association, when there is a connection that has been made by the National Academy of Sciences, that connection be recognized by the VA and be dealt with; we have dealt with all of the other diseases that have now been officially connected.

There are a number of those diseases that fall in category 1 and category 2. Chloracne is in that category. Non-Hodgkin's lymphoma is in that category. Soft-tissue sarcoma, Hodgkin's disease, porphyria cutanea tarda, multiple myeloma, respiratory cancers of the lung, larynx and trachea, prostate cancer, acute and sub-acute peripheral neuropathy—all of those are in categories 1 and 2. If we do not act on this amendment in a favorable way, the only category 1 or 2 disease that will not be on the list officially recognized will be spina bifida.

We will be saying spina bifida is different than all the diseases I have just listed here. We are going to say that we are going to not abide by the law, not abide by the guidance given by the National Academy of Sciences. We are going to say we know better than the National Academy of Sciences. We are going to say that even though we asked for evidence related to birth defects, we are not interested in facing the consequences of that evidence.

I hope we do not make that mistake. I hope we do what we have done in every one of these other cases. With respect to every one of these diseases, we have acknowledged the connection, we have made the commitment to our veterans experiencing these diseases. The time to do it for spina bifida is this morning, is today. Let us get it done.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I am really amazed to listen to the debate across the aisle, and the fervor, really, the fervor about an amendment which would actually end up saving a lot of money; a debate in which they are determined that these kids with spina bifida are not going to have any help. There is a real determination about this. This is not just a mild philosophical discussion. There is a sense of outrage that spina bifida kids could get this kind of help.

I find that interesting. Maybe they could get some help from the 15-percent tax cut. I don't know.

The Senator from Missouri used the phrase "spinning out of control" over costs that will come, in 1997, to $3.179 million for medical care—spinning out of control. Actually, the Senator from Missouri said $14 million. He is wrong. It is $3.179 million for medical care. Spinning out of control.

This is very interesting. I say to my esteemed chairman that we have never done anything on Gardner. He talked about correcting Gardner. He is wrong about that. We have never corrected Gardner. Some said it could be done. It has not been done. That is a statement that is inaccurate, and my colleagues who are listening, and their staffs, I hope they will understand that.

The Senator from Missouri was talking about Gardner, using Gardner money to take away from veterans benefits. You cannot use Gardner money for veterans benefits. Gardner money is not a cash benefit for veterans. It has only to do with potential Government liability. It is not a source of funding for veterans benefits, another mistake by the Senator from Missouri.

"Normal legislative process"—sacred all of a sudden—"normal legislative

process." Some of us feel very strongly about Persian Gulf war veterans and some of the mysterious illnesses which are occurring in tens of thousands of people across this country. No, nobody has been able to really prove anything to this point, but there is no normal legislative process.

In fact, there was no interest on the part of the majority in even taking up this matter over the past 2 years in the Veterans' Affairs Committee. This is a subject which has gotten a great deal of attention, but not in the Veterans' Committee.

I, in fact, as the ranking member, held—it was not even a hearing, it was kind of a meeting, about the Persian Gulf war illnesses—and was chewed out up and down for doing something that would never again be allowed in the Veterans' Committee, for trying to come to the rescue of Persian Gulf war veterans.

Incidentally, some of those veterans have kids who, in a sense, although the word "entitlement" is not exactly true, we have already established that the Department of Veterans Affairs will allow medical examinations for the deformed children of some of these Persian Gulf war veterans, and there are a lot of them. That has been established. That is now being done. That is now in the law. They will be carefully examined by the Department of Veterans Affairs.

But there is not any normal legislative process because there is no interest. There is no interest in the deformed children. There is no interest in these Persian Gulf war mystery illnesses, which are no mystery to me. I don't care if anybody has proved it. You cannot take a 20-year-old, send him to the Persian Gulf, and do what they did over there—which I will not get into now—and the Defense Department denied all of it until they had to admit that when they blew up a group of chemical bombs, maybe one of the divisions had been exposed a little bit. But that was just a minor thing, according to the Department of Defense, and they said if they had to do it all over again, they would do it exactly the same way. That is what the head of health for the Department of Defense said, a very sensitive position.

So what the Senator from Missouri and the Senator from Wyoming have to understand, which I thought they would, is that war has changed. We are not talking about missiles. We are not talking about neutron bombs. We are not talking about hand-to-hand combat. We are not talking about tank warfare. We are talking about what started back in the First World War with mustard gas, in a very small sense, and we were unprepared for that. And then the atomic experimentation, which we carried out as a country, and we were unprepared for that. Thousands of soldiers were radiated, and the Government refused to do anything about it. It said, "You can't prove it."

Then along comes agent orange. They say it is just incidental if you are getting cancer or anything of that sort. You happened to have been in Vietnam in an agent-orange-exposed area. We do not seem to be able to show that we can prove this is enough, although I think we could there. Admiral Zumwalt, and a lot of other people, were pretty firm on that.

War is changing, and I hope the other side is noticing that. We are getting into the century of toxins, of chemicals. We do not have the big Russian bear anymore. We have the little horrendous dictators like Saddam Hussein and Muammar Qadhafi. They build their little bombs, and their little bombs are not filled with explosives, they are filled with chemicals and toxins that will destroy peoples' nervous systems.

"Spinning out of control," "normal legislative process," "first time we've ever had an entitlement"—the world is changing, I say to my colleagues; war is changing, and it would be a good thing to take notice of.

I would like to have a hearing on this subject, the changing nature of war, but we will not have one. We will not have one this month. We will not have one next month if we are in session, I guarantee you that, because the chairman will not do it. No, I am sorry, the Gardner amendment was not corrected. And, yes, there are some of us over here who do want to help children, some of us over here who do have a bias toward children. If evidence is, by and large, 50–50, we will lean toward the children, particularly in the case of spina bifida. All of that, unfortunately, was just a prelude to my remarks. I felt a need to respond.

Incidentally, if the Senator from Wyoming is so unhappy about the precedent which was set in the agent orange decision by the Congress in the Vietnam war, then why doesn't he introduce legislation to repeal it? He talks about it all the time. Why not then introduce legislation to repeal it and count the votes? If that was wrong, if the proof was not sufficient, then introduce legislation to repeal it.

I applaud the Democratic leader and his amendment to provide help and monetary support to veterans' children with spina bifida. I am going to talk about it. This is a tragedy that cries out for normal legislative process, and if you can't get it, then faster action.

It also cries out for acceptance of Government responsibility. Spinning out of control—spinning out of control, $3 million in 1997 for medical care for spina bifida children born to Vietnam veterans. I mean, you have about 1,500 to 4,000 of these spina bifida babies being born each year, but the number is going down because of improved maternal diet. It has been going down for the last decade.

There are many arguments against, as the Senator from Missouri pointed out, amending an appropriations bill in this way. The minority leader made the same argument, and those are arguments I would be generally inclined to support. Being the junior Senator to the senior Senator from West Virginia, those are arguments I would almost be bound to support.

But here is one Senator from West Virginia who is willing to give a great deal of leeway and the benefit of the doubt when a compelling need comes about, to meet our responsibility to a class in our society called children. That is what we are doing by this amendment of the minority leader.

A little background. Under the agent orange law that we enacted in 1991, the Government assumed responsibility for health outcomes. If somebody does not like it, repeal it if they can, but that is what we did under the law. We assumed responsibility for health outcomes of that particular war, the Vietnam war, where there was at least a positive association of the war with the disease.

That law required the VA to contract with the National Academy of Sciences—and here we are doing the same thing on this. The National Academy of Sciences was charged with reviewing ongoing research on illnesses resulting from agent orange exposure in Vietnam. I seriously doubt there are many Senators on either side of the aisle who really questioned whether there is a relationship between agent orange and cancer, and the other different perils that it caused.

In March of this year, the National Academy of Sciences found limited or suggestive evidence for connecting service in Vietnam with a number of additional diseases, including spina bifida, in children of those who served in Vietnam. Creating a new entitlement for dependents? Yes. Because when you get into this kind of toxic stuff, dependents are affected, like they were in the Persian Gulf war through the chemical combinations and toxins that were used there. Dependents are affected. Reproductive activities are affected. Women are affected. Kids are affected. Have you seen the pictures? Have you visited the kids? Has anybody on that side of the aisle visited the kids, visited the families, talked with them? I do not know.

But this is extremely important. It is the National Academy of Sciences that made this finding, Mr. President, not the Congress, not the Veterans' Committee, not the House, not the Senate, not the President, not the VA. The National Academy of Sciences.

The President immediately established a task force within the Department of Veterans Affairs to make recommendations to him based upon what the NAS—the National Academy of Sciences—had reported. The VA task force recommended, among other

things, the enactment of legislation that is now provided by the Democratic leader's amendment. Everything sounds pretty much in order to me.

On May 28, President Clinton announced that the Government would meet its responsibility to the children of Vietnam veterans. We did it with agent orange. Nobody has tried to repeal that that I am aware of. Now we have a new classification, new evidences, dependents, children showing up with problems. And the President said that he would send the Congress legislation to take care of Vietnam veterans' children who develop spina bifida.

The decision for the Government to take responsibility for children of veterans exposed to these environmental hazards—toxic hazards of war—is precedent setting. It surely is. It absolutely is, because the nature of war is changing. It is not without controversy, as is clear on the floor this morning, but it is what I call a leadership decision. And I applaud the President for making that decision.

The hazards of war are changing. It is so obvious. It is so obvious, Mr. President. It seems so obvious, but evidently it is not. Witness the great difficulty that the Government has had in discovering the causes of the vast array of illnesses that have followed service in the Persian Gulf war. The injuries of that war in the great majority of cases have not resulted, once again, from guns or missiles, but rather from environmental or other toxic exposures.

Once again, we have not had a chance to have a hearing on this. The normal legislative process was not followed, which is the reason that the minority leader and some of us have had to resort to approaches of this sort. There are new types of dangers that our soldiers will increasingly face in future conflicts. That is assured. That is why, as chair and now ranking member of the Committee on Veterans' Affairs, I made and am making a significant effort to oversee the Government efforts regarding environmental exposures to our military men and women. And it has not been a pretty sight.

The Defense Department, in one of the greatest stonewalls of all time, but in keeping with their record going all the way back to the First World War, denies any responsibility for anything happening to the soldiers that they are responsible for.

Part of the bargain in the Vietnam war, and also the Persian Gulf war—but here we are talking about Vietnam with these children—yes, the soldiers, men and women, signed up and went over to serve, but it was not part of the bargain that the children which they might have upon return from service, who might potentially be affected, would be part of this deal. These children were not sent to Vietnam. They did not sign up for the risks of service. There seems to be benefit-of-the-doubt type evidence that they were harmed, however.

So the question comes again, do we favor the $3 million expenditure in 1997 for medical care for the horrible consequences they suffered—or do we ignore them, ignore them because it is a new type of entitlement or it has not followed the legislative process? I mean, this is a stunning difference between the two sides of the aisle.

The question before us today is whether the Government owes responsibility to children born to those who served in an earlier war, children born with a disabling condition called spina bifida. Now let us talk a little bit about the problem.

Mr. President, the problem can be immensely horrible, and it is in the case of spina bifida. It is not brought on by any action by the children. It is not brought on by any action by the parents. These are truly innocent victims. My colleagues may not want to hear some of the horrendous problems these children face, but they are going to, because we all need to understand a little bit about the nature of what is at stake here.

Spina bifida, SB, means "split spine." It is a defect of the neural tube, the embryonic structure that evolves into the brain and the spinal cord. It results from the failure of the spine to close properly in the first month of pregnancy.

There are three types of spina bifida, the most common of which is occulta, which is not disabling and is not included in the amendment before us.

What is covered in the proposed amendment are the two much more severe forms of spina bifida. In these forms, a cyst holding the spinal cord membranes, nerve roots of the spinal cord, or the cord itself, usually malformed, pokes through an open part of the spine; or there may be, in fact, no cyst, but only a fully exposed section of the spinal cord and the nerves.

Affected babies are at a high risk of infection until the back is closed surgically, and varying degrees of other problems remain even if the surgery is successful. Estimates of the number of children born with spina bifida range from 1,500 to 4,000 each year. As I indicated before, that number is going down as maternal diet and pregnancy testing are improving. All of this has been declining over the last decade.

The types of problems that these children develop vary, sometimes significantly, depending on the particular spinal nerves that are involved. But their conditions are serious, often severely disabling, and for all, lifelong. Curable? No. Lifelong? Yes.

Now, there are three primary areas of disabling function: The central nervous system, which is the brain and the spinal cord; the urologic system, which are the kidneys and the bladder; and the musculoskeletal system, which are the bones and muscles. Common primary medical problems include hydrocephalus, which occurs when the cerebrospinal fluid is unable to drain normally and fluid collects around the brain, resulting in an enlarged head; serious bladder problems due to lack of muscle control—urinary tract infections are very common, and kidney problems can result; bowel control problems; orthopedic conditions, including partial or complete paralysis, depending on where the defect shows on the spinal cord; and a variety of problems involving dislocated joints, misshapen bones, bowed legs, and foot deformities.

It is not a lot of fun. It is also very common for these children to develop a whole host of secondary medical problems as a result of this, including obesity, high blood pressure, heart disease, bone fractures, seizures, eye disorders—due to pressure on the optic nerve—and a life-threatening latex allergy.

In addition, learning disabilities are a constant and lifelong reality for children with spina bifida. Now, remember, we have had learning through the school systems as it has been over the past couple of centuries; and we are now, after the deregulation of the telecommunication industry, entering into a whole new age where children are going to be expected to be able to handle much more complex learning procedures through computers and all the rest. So learning disabilities are going to be a horrible, lifelong reality for children with spina bifida, as they already are. Poor short-term memory, lack of organizational skills, lack of eye-hand coordination, needs for special education and other kinds of support are common.

Finally, there are a plethora of social development and psychological problems which plague these children for all their lives. Put yourself in the condition that I have just described for the last 7 or 8 minutes. I invite my colleagues to put their children in that condition. We have all seen spina bifida kids. We all know what they look like, what happens. We all know the love they get from their parents, but we all know what a fundamentally incurable, horrible condition it is. I, as one Senator, want to say that I am willing to give these children a huge benefit of the doubt as we did in the agent orange bill.

I turn to the controversy of determining the cause of these problems. Now, looking at the science and the law, opponents of providing health care to spina bifida children will honestly and genuinely argue that the scientific evidence of the connection between service in Vietnam and spina bifida is either lacking or flawed, or both. And for sure, there are those who argue against caring for any Vietnam veterans for agent orange exposure.

But, Mr. President, I believe we in Congress are particularly ill-suited to be the determiners of what is and what is not "good science." Those are debates and discussions best left to the scientists themselves, not to politicians. But the determination is great to replace scientific review with political debate and bias.

The fact is that with only a few exceptions, the maladies previously identified by the National Academy of Sciences as statistically connected with service in Vietnam can also be statistically related to other causes, as well.

The scientific proof, as I understand it, is not an open-and-shut case with regard to those earlier diseases and illness findings. I readily acknowledge it is not an open-and-shut case regarding spina bifida.

However, Mr. President, this is, in fact, exactly what the 1991 agent orange law intended. We, as a Nation, decided then that we would give the benefit of the doubt to those who served our country in Vietnam. What we decided then was to task the NAS with the scientific determination as to the strength of the evidence of connection of a disease or illness. No more and no less.

Based upon those NAS findings, we directed the Department of Veterans Affairs to make a determination of whether there was a "positive association"—meaning at least 50 percent of the credible evidence supported a conclusion that a health outcome was related to Vietnam service. In fulfilling their job, the NAS established in 1993 four categories of the association of health outcomes. The minority leader referred to these. One, sufficient evidence of association. Two, limited or suggestive evidence. Three, inadequate or insufficient evidence. Four, limited or suggested evidence of no association.

It was in the second category, "limited or suggestive evidence," that the NAS earlier this year placed spina bifida in its report—for the first time. It is based upon this NAS finding that the VA task force concluded there was sufficient evidence to establish a positive association of military service and spina bifida.

The question then becomes whether "limited or suggested evidence of an association"—which the task force described as "several studies [that] suggest apparent increases in risk in offspring of Vietnam veterans"—whether that is sufficient to support the Government's assuming financial responsibility.

That is an appropriate question for debate, but one we have already answered in this body and in this Congress and in the law, by enactment of the 1991 agent orange law. What this amendment does today is fully in accordance with that law.

Now, the legislation proposed by the Democratic leader, and as suggested by the Department of Veterans Affairs, would establish a health care program for children with spina bifida, and a three-tiered compensation program paying either $200, $700, or $1,200 a month, depending on the degree of disability. The compensation program would not, as I understand it, entail new costs, since it is offset by savings of other veterans' programs, and the health program's small cost would be absorbed in the VA medical care account.

Because no one knows for sure how many children will qualify for the health care or monetary benefits, the costs are uncertain. Estimates range from 700 to 3,000 spina bifida children of a parent who served in Vietnam and where this positive association was established.

CBO has informally advised—and they speak for us—that about 2,785 children probably would be eligible to participate—2,785 children—at a total cost of perhaps $4 million annually for health care. This is a real, real, budget buster. This is, in fact, a very small amount of money, when one considers that lifetime health care costs for those who have spina bifida range from $294,000—which comes from the Centers for Disease Control—to over $750,000—and that comes from the Spina Bifida Association—per child for comprehensive health care. But since many of the health care costs are in the early years of life, and the proposed amendment is not retroactive, the health care costs would be much, much less than these estimates.

The monetary portion of the benefit is intended to offset the varied expenses that these children and their families face other than direct health care. One can well imagine that this would include such things as special education and training, lost wages or work limitations, or independent living needs. It is not very hard to imagine that. Under the Democratic leader's amendment, the Secretary of Veterans Affairs would establish, by regulation, three levels of disability, corresponding to the three tiers of payments intended to supplement other funds available to these children from either public or private sources.

Again, CBO estimates that the compensation and vocational costs of the amendment would be fully offset and would, in fact, result in a net savings of $4.2 million in 1997 and $525 million through 2002.

So I conclude, Mr. President, that the question we will answer today is whether we will honor the commitment we have often stated to our men and women in uniform. I am sure somebody will stand up and take that one apart with all kinds of anger, rage, and whatever else. But that is what we have committed to do. That is the mission statement above the door at the Department of Veterans Affairs office building.

We are dealing with a new kind of precedent-setting entitlement, yes, because we have moved into a new era of warfare. I am sorry, but in the Persian Gulf, there are kids that are born with deformities. There is something called "burning semen," what some Persian Gulf veterans' wives have called "shooting fire," which nobody wants to talk about; wherein the soldier, be it a male, who served up front in the Persian Gulf war, when he is having sexual relations with his wife and some sperm maybe hits her in the leg, an enormous red welt develops. We have never had to talk about things like that before, but we do now because it is different now.

Some of these kids from the Persian Gulf war are being born deformed. Have we done anything to really help them? No. Has the Defense Department admitted anything is wrong whatsoever? No, of course not, not since World War One have they ever done that.

Now we are dealing with spina bifida, coming from the Vietnam war. Positive association was established, leaning toward the child, toward the veteran was established, by law, in 1991. So we will have this question answered today. There are those who want to go by normal legislative procedure, which would not happen, and who are, for whatever reason, incredibly reluctant to help children in a situation in which money would be saved by so doing.

Spina bifida is horrible. I repeat, it is horrible. My wife and I have four children. None of them has that. I thank God that none of them do. I am overwhelmed with caring. One man I met on the subway yesterday whose child has spina bifida talked to me about her. It has nothing to do with Vietnam, but he talked about just the problems of that.

So I come very close to my ending here. In that 1991 law, Mr. President, we decided that the scientific test of our commitment would not be a 100 percent, totally black or white, test of cause and effect. We decided that as a matter of law. It was not intended to be an absolute test of cause and effect. It was intentionally balanced in favor of our soldiers, which now includes their offspring, because the world and wars have changed.

Those we have directed to make these decisions now tell us that there is evidence—albeit limited or suggestive evidence—of the causal connection for spina bifida in children and the service of their parents in Vietnam. As I understand it, the evidence is considered close to a 50–50 proposition; that is, the causal connection is as likely as not.

In such cases, I am totally comfortable with giving a strong presumption in favor of the children of American service members, at least until

such time as scientific evidence suggests a more positive association—or a less positive one, a negligible one, or a nonassociation.

This is not an area of absolutes. But if I am to err, Mr. President, as I often have and surely will in the future, I choose to err on the side of assuming a responsibility, of assuming a benefit of the doubt, of assuming the care of the children of the war.

I thank the Presiding Officer and yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. Mr. President, I will be very brief. I thank the Senator from West Virginia for his very personal, very eloquent, and very powerful statement. The Senator from Wyoming, the chairman on this committee, has been gracious enough to let me speak.

Mr. President, I am proud and honored to be a cosponsor of this important and historic amendment introduced by the distinguished and able Democratic leader, Senator DASCHLE. This amendment would enable the VA to extend health care and other benefits, including a monthly stipend, to Vietnam veterans' children suffering from spina bifida, a serious, disabling neural tube birth defect that requires lifelong care.

While I recognize that this amendment is unprecedented in that it would authorize the VA for the first time to provide health care and related benefits to children of veterans, there is no question in my mind that it is fully justified. The humane and courageous decision of the President and Secretary of Veterans Affairs Brown to request that spina bifida in the offspring of Vietnam veterans be considered service-connected was based on a National Academy of Sciences [NAS] study released in March 1996 that found evidence suggesting a link between veterans' exposure to agent orange and the occurrence of spina bifida in their children.

Mr. President, it is important to note that NAS used the same scientific criteria to conclude that there is a credible link between parental exposure to agent orange and the occurrence of spina bifida in their offspring as it had previously used in a 1993 NAS study that found a connection between veterans' exposure to agent orange and the incidence of respiratory cancers and multiple myeloma. Since Vietnam veterans suffering from these diseases already are receiving VA benefits based on the NAS findings and a subsequent determination that these conditions are presumptively service-connected, it is only fair that spina bifida-afflicted children of Vietnam veterans should also be provided with appropriate VA benefits.

Moreover, I would like to underscore the fact that both the 1993 and 1996 NAS studies were mandated by the Agent Orange Act of 1991, which passed the Senate 99 to 0. That act also stipulated that reproductive disorders and birth defects must be accorded special attention to ascertain whether or not compensation is warranted. The 1996 NAS report leaves little doubt about the wisdom of focusing on birth defects and that at least for the innocent and tragic victims of spina bifida there is little doubt that compensation is warranted.

Vietnam veterans have long been concerned that their military service jeopardized the health of their children and some of their worst fears now appear to have been confirmed. Some of the children of American soldiers exposed to agent orange are now paying a terrible price. Moreover, the cost of caring for a child with spina bifida can devastate a family financially. There is no question that the Federal Government has a moral responsibility to help veterans whose children suffer from spina bifida meet their children's health care and other special needs. These children are innocent victims of the Vietnam war. The least we can do is to provide them with the benefits they need and clearly deserve.

Mr. President, again, I am very proud to be an original cosponsor of this amendment. I count as one of my blessings all of the teaching that the Vietnam vets, and really the veterans community, have done in Minnesota. They have really been my teachers. I want to say that I have immersed myself in issues important to them. I have tried to do my very best. I am really proud of a lot of my work, in the main, not because of me, but because——

The PRESIDING OFFICER. The Chair advises the Senator that he might need to adjust his microphone.

Mr. WELLSTONE. The microphone seems to be going on and off. Let me try this. Can the Chair hear me?

The PRESIDING OFFICER. Yes.

Mr. WELLSTONE. Mr. President, I believe that this amendment is very important. Again, it comes from work with Vietnam vets and their families and others in the veterans community.

I thank Secretary Brown for his humane recommendation that spina bifida in the offspring of Vietnam vets be considered service connected. I know it is based on the National Academy of Sciences study.

Mr. President, if you think about it, these children really are innocent victims of the Vietnam war. If I had to err, I would rather err on this side. I do not believe this is a huge appropriation of resources. I believe this is the right thing for us to do.

I think, at least to me—sometimes I do not feel like people in our country realize this—it has been amazing how many veterans and their families fall between the cracks and still do not get the kind of health care that they truly deserve. In this particular case there are just too many families who have this struggle, too many children of Vietnam vets, too many children, I say again, who are innocent victims of this war, too many children who need our help, and I think this amendment is a very important step in the direction of providing assistance to families, to Vietnam vets, and to the children of Vietnam vets. I believe that this help is long overdue.

Mr. President, I have met too many Vietnam vets who have struggled—some of whom have died—because of exposure to agent orange. It is, I think, the least we can do to provide this assistance to their children.

Mr. President, I hope that our colleagues on both sides will give this amendment introduced by the minority leader very strong support. I know in very good faith my friend—I consider Senator SIMPSON really to be a friend, somebody for whom I have tremendous respect—is in disagreement. But from my own heart, I think it is the right thing to do. I think we can help children. I think we can help families. I think it is part of our commitment to Vietnam vets. I think they deserve the assistance.

I am very proud to be a cosponsor of the amendment.

I yield the floor.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER (Mr. CAMPBELL). The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I thank my friend from Minnesota. I have worked with him on various issues having to do with Parkinson's disease, mental health, and veterans' issues. He is a member of the Senate Veterans' Affairs Committee. I have come to very much appreciate the things he has debated, and to have a better understanding of him throughout. I think respect for each other is what the Senate is about. We can have serious partisan differences. Senator ROCKEFELLER and I have more serious partisan differences than most two people on the floor. But that need not interfere with our ability to legislate.

I thank the Presiding Officer.

Mr. President, again I want to commend Senator BOND for his work. He has done yeoman work on this issue. Senator DASCHLE, as I say, and I have been batting this one around longer than you would believe because Senator DASCHLE believes deeply that, whether we are going to find anything or not, we must keep looking for something with regard to a linkage of dioxin and disease. I wish it were that easy. It is not.

In the beginning of my remarks I stated that if there was something there before to establish such a link, there would have been a lot of plaintiffs who would have never settled the

case when they were having a great old time suing everybody that ever introduced herbicides containing dioxin. You may be assured of that. Attorneys in the class action would have never turned around and gone backward if they had known there was any possible way to prove this tie because it would be jackpot day for trial attorneys on that one, and the jackpot day did not come. Such a link has not been proven, and the only group that has any credibility in this about exposure is the Ranch Hand study.

So no wonder the proponents of the amendment say ignore the Ranch Hand study when it does not support their cause. Those were the people who bathed in it, put it in the barrels, unloaded it, kicked it out of the aircraft, and there is no more serious difficulty with that cohort of people than with people who were nonveterans and not in Vietnam. I do not know how many times we have to say that. There have been no increase in birth defects in that group.

Again, the Ranch Hand study is the people most exposed. But there is one thing, or two or three things that I would like to say in response to my friend from West Virginia. The Senator from West Virginia and the Senator from South Dakota keep saying to us in a litany, a mantra, that the NAS study shows that 50 percent of the studies show an association and 50 percent of them do not show an association. That is not so, my colleagues. All of the studies examined for the first report of the Institute of Medicine in 1993 were deemed not to have sufficient evidence to show an association with birth defects. All of them for 1993. After 1993, one new study was put forward by the NAS—the Ranch Hand study. Proponents have grasped the NAS classification of this study as having limited/suggestive value as a proof of association. But that study, according to its own principal investigator, who testified at a hearing in the House, shows no association whatsoever.

The other disturbing thing to me is that we continue to hear the use of "emotion, fear, guilt," suggesting that somehow we don't want to do something for these children. This is a horrible disease. To me it is more than talk. I have been involved in fundraising for spina bifida. I have been out there raising money for this disease in tributes to others where I participated for fundraising activities long before this issue ever came before this body. I do not need anyone to check my credentials on how I care about these people. It is a horrible disease. It is not even worth talking about in trying to say that somehow those who are opposed to this amendment are less caring or are poised to do ugly things to the most fragile in our society. I am disgusted by that kind of argument. You can go ahead and continue to make it, and I will continue to be disgusted by it. That type of outrage is the type of debate that is presented. We are not talking about a 15-percent tax cut. We are not talking about partisanship. In my experience there are many partisans in this body, but the Senator from West Virginia is one of the best. I do it, too. But this does not have anything to do with who cares for children. It does not have anything to do with who values the kids. It does not have anything to do with who cares more. We all care just as much for our fellow human beings as anyone from West Virginia or Wyoming or New York. We are all here as caring individuals.

So the continuing use of "emotion, fear, guilt" is not attractive to this Senator. Every one of us knows the problems of spina bifida. Every single one of us should, or certainly will, after this debate.

Let me tell you, ladies and gentlemen, we do a lot for the people with spina bifida. Maybe the VA does not do anything for people with spina bifida, but the Government does. So how many duplicative programs are you going to have, or are you just going to have an appeal to emotion and then a press release about what you did for veterans? I am a veteran. I am very proud to be a veteran. Some of the most unbelievable arguments on the other side—I am not relating this to the Senator from West Virginia or the Senator from South Dakota—come from the people who have not even been in the Civil Air Patrol. I must say I get a belly full of that one, too.

Let us tell our colleagues what we do for people in this kind of horrible extremity. Anyone under 21 falls under the Early Periodic Screening and Diagnostic Testing Program, the EPSD Program of Medicare, for those in extremity, the horror stories, the wretched, the beat up, the people we hear talked about here as if only some of us cared about those people. Under Medicaid, this program provides for everything that a medical professional deems necessary for treatment and rehabilitation—everything. When the child reaches 21, then the State determines what will be covered above and beyond the Federal minimum standards. Those standards are inpatient, outpatient, nursing home, home health aid, drugs, x rays, medical doctors, nurse practitioner visits, and dental. All of that is provided to people who are in need as a result of the disease, the horrible disease of spina bifida. Therefore, this amendment is redundant, but that fact is never mentioned.

And then there is a final point which nobody seems to pick up, but I have to keep throwing it out. The Shriners—the Ancient Order of Nobles of the Mystic Shrine—is a Masonic organization, and even though these organizations are sometimes held in some different lights than they were 50 years ago, let me tell you what the Shriners do, ladies and gentlemen. They have a string of hospitals that are solely for crippled children. And do you know what? They will provide free care for every single child with spina bifida in the United States, period. No Government bucks. No grants. No nothing. This is their job, to provide this care for people who cannot afford to do anything and to do it free of charge, no questions asked. And they want me to express that to my colleagues one more time. That point apparently has not been heard in this debate, and is often shuffled to the bottom.

There are people who do things in America because they love other people and not because they love them more. Because we all are that way. We are a compassionate nation. I do not know anybody in this body, Democrat or Republican, who sits around at night figuring out how to do less for children, do less for seniors, do less for the disenfranchised or the powerless or the minorities in our country. I do not know anybody. That is ugly, ugly stuff that does not fit. It does not fit.

Now, there was a comment earlier that if we are upset about the agent orange legislation, we should repeal it. No way. I would not repeal it. It gave the NAS some excellent direction. I voted for it. Unfortunately, in this case it did not fulfill its promise. Unfortunately emotion and fear and guilt overwhelmed sound medicine and science one more time.

There was comment that there had been no interest in Persian Gulf injuries and on activities relating to that war. That is not so. That is in total error. With me as chairman of the committee and Senator ROCKEFELLER as ranking member, we have not maybe legislated on the things that he would have legislated if he were chairman, but that is called seniority and it is called who is in charge. If that changes next time, I am certain that I will not be present for the activity, but if my friend from West Virginia is chairman of the Veterans' Affairs Committee, he will have a whole new agenda and a busy one at that. But I can tell you the Congress has legislated—oh, we have, indeed—with the Persian Gulf. We have enacted benefits upon benefits. We have enacted health care. We have enacted research and all of those programs are now on the books, ongoing, and you cannot say that this Congress or this chairman has not been vitally involved in the process. We have done what we had to do.

Now, we have another little item which has come to the attention of all of us, I hope, a letter dated August 29 received September 3 with the yearly progress report of the ongoing Ranch-Hand study. It went to the committee, but I think it should be in your hands and we will see that it is in the hands

of the Members before the vote. You want to look at it if you can cut through the emotion, the fear and the stuff that goes with this issue. As I say, I have been here 18 years, and it is tough enough when you mention the word "veteran," but when you mention the word "veteran" and "innocent disabled children," then the engines are fully cranked. But there is not any way to pay for this one if we have to go back to reconciliation and redo our work. And I want every single sponsor of this amendment to tell me where we should get the money if we lose the money that we had in here for reconciliation because of the use of the Gardner decision here. I really want to hear that. Maybe you could give me book, page, and hymn number as to where you are going to get the scratch to do this and pay for 214 million bucks over 6 years.

But let us get back to the real issue raised by the legislation that I voted for and very proudly too. That legislation was filled with language that talked about:

> Sound medical and scientific evidence. . . . Scientific evidence and reasoning. . . . Statistical association. . . . Strength of the evidence. . . . The increased risk of the disease. . . . The plausible biological mechanisms. . . . The causal relationships.

This is the language of the bill.

> All other sound medical and scientific information. . . . Statistically significant. . . . Capable of replication. . . . Withstand peer review.

They did not do any of that here. None of it. None of it. I think that there may have been simply a professional lapse by NAS in a very complicated task which they clearly took very seriously, and I do not denigrate that in any way. But I can tell you what the law says. I can read that very clearly.

But in the Ranch-Hand study update that we just received, and which will be on your desks, listen to this sentence:

> The data provides little or no support for the theory that paternal exposure to Agent Orange and its dioxin containment is associated with adverse reproductive outcomes.

That is in pretty good English. What it really means is they did not find a thing in the Ranch Hand study, not a thing that would cause an adverse reproductive outcome. Those are the Ranch-Hand persons. They keep saying, look at the Ranch-Hand study because the Ranch-Hand study was the guys that took the real hits. But the Ranch Hand study found there is no real difference of any statistical order.

Then remember what we have done for these veterans who think that dioxin may have been the cause of their diseases. We have provided service upon service upon service to them. When I came here, we were providing $20 billion for veterans and today it is $40 billion, and there are 3 million fewer veterans. To have somebody say to me that we do not provide for our veterans is just not so. So I hope that you will look at your report from the Ranch-Hand study. I think it would be important.

And let me just say that I have set a hearing for this, and the reason I set a hearing is because a bill came in. And I guess the reason the bill came in is because of frustration. But you cannot have a hearing based on frustration. The bill came in July 29. Then we left here. So I set a hearing for September 18 and was ready to go ahead with it but the ranking member told me he cannot be here then. My friend from West Virginia could not be here for that date. So I said we'll set another date.

So to say that I am not receptive and helpful and cooperative is just not so.

We have had the normal legislative process. It is called a bill is "considered." We could get that chart that they hand out to the school kids. You put in a bill and it is referred to a committee. Then you have hearings. However, we have had nothing on this measure—nothing. I will have that hearing and it will be done at a time mutually convenient with my friend from West Virginia. To think the statement is made we are not interested in taking up the issue and that we have ignored, or not paid proper attention to the Persian Gulf veterans—it is not so. And that we have no interest in children—boy, that one has to go somewhere else for some other debate.

So, we will have the hearing. Hopefully, it will match the time of my colleague, my good friend from West Virginia. I tried to accommodate him. If I cannot, I am going to have the hearing anyway. In fact, there came a time a few months ago where he had a hearing. He just called it. So I showed up. I thought that would be interesting, that I might join in the fun.

So those are things that happen when you have the type of activity where you have a breakdown in staff, which happens here often—jealousies, pettiness, all the things which go with the human condition here as well as out in the local community. We do not do things any differently here than you do in your hometown. I have often said, people who are looking to us for perfection are often people who do not have any perfection in their own lives, so they try to say, "You do it. Mine is a mess, so we expect perfection out of you." They will never get perfection out of here, and that is the joy of legislating and that is why the country works.

I am willing to give children the benefit of the doubt. Who is not? I am willing to give veterans the benefit of the doubt. Who is not? Who has not? For Heaven's sake, yes, Congress is poorly suited to evaluate what is good science. But scientists are not, and that is why we should leave it with them. With only a few exceptions, this is surely an extraordinary venture for us, to open a new entitlement program at a time when everybody in this country knows that the entitlements are simply sucking us away. When you provide this kind of thing for people, like you do with any other entitlement, it is automatic. And it has to be paid. If you do not pay it, you get sued by the recipient.

So we do nothing about entitlements, and there will be nothing done between now and November 5, in this country, by any of us here or by either Presidential candidate that will have a single thing to do with the one thing that is just draining the core out of America, and that is Medicare, Medicaid, Social Security, Federal retirement, and interest on the national debt. And the saddest irony is those who talk all day long about the kids and the veterans and all the rest will find, in the year 2012, according to the bipartisan committee report of Senator KERREY and Senator Danforth, there will be nothing left for transportation, education, defense or any other thing—WIC, WIN, Head Start or any other thing you want or really lust for or must have, because all the resources will have been used by those five items I just described: Medicare, Medicaid, Social Security, Federal retirement, interest on the national debt. That is your legacy.

Then what will we do with the poor? The kids? The veterans? You tell me. Because we cannot even stop the COLA. We cannot even cut down a cost-of-living-allowance for a senior citizen who lives in Sun City with a cabin in the mountains and a couple of homes and a couple of cars. We cannot even get the COLA reduced for those people. We cannot even "affluence test" them, because it is a violation of America.

I will be waiting for that debate. I shall report on it from the banks of the Ishawooa Creek, and the Bobcat Ranch, southwest of Cody, WY—when I finish alerting the young people as to what is going to happen to them, that is.

That is why I wear this tie. This is for young people. A young man came up the other day. He was 18. He had his hat on backward, kind of a mouth-breathing exercise. He said, "What is going to happen to us? Who speaks for us?"

"Well," I said, "why don't you speak for yourselves? We gave you the right to vote and only 15 percent of you use it. Don't come whimpering around to me." He said, "OK." So then he put his cap on correctly and went, breathing the vapors, in the other direction. That is why I wear this tie. Because I tell people between 18 and 40, this tie, with chickens on it, if they do not get off their fannies and do something about it, they will be picking grit with the chickens when they are 65.

We will see how that works. I intend to get involved with groups, young,

third millennium, and others, because if you really, really care about the poor and the disenfranchised and the seniors and the veterans, then get off your fanny and do something with the issues that are eating our lunch instead of just tapping around the edges, fearful of what may happen if you act.

Well, as I say, it is very difficult to enter a debate like this because there are some words that lead to immediate emotion and the voting of taxpayer money without any further thought when they are uttered within this Chamber. Those words include "veterans," and "innocent disabled children." Now there is a way to combine them in one amendment. If this amendment is to be decided on the basis of the emotions evoked by these words, we can cease right here and save the Senate's time. And it is too bad there is not a time agreement on this amendment. My remarks, I told them, would be about 30 minutes, because I have a hunch there will be a lot of people who will come in here. Maybe not. But, if the Senate is actually willing to look at this issue closely and honestly, and with absolute facts, then there are issues that must be raised.

First of all is the fact that this amendment, to an appropriations bill, mind you, would create a brandnew program with brandnew benefits for a new population of previously unserved beneficiaries. Whatever the merits of the proposal, it is clearly an attempt to enact authorizing legislation on an appropriations bill and is, therefore, out of order. I think that will be presented by my friend from Missouri. I will not be so bold as to suggest this amendment would be the first time the Senate has approved authorizing legislation on an appropriations bill, but we should ask ourselves if this is the proper legislative process for creating new entitlements.

If it is, then, I earnestly suggest the Senate would consider eliminating the authorizing committees altogether. We would save the taxpayers the cost of funding committee operations and save our colleagues the time and effort that we know takes place as we do our work, in what is oftentimes a tedious process.

I can understand how, in some cases, a Senator might want to circumvent the committee process, bring an amendment directly to the floor of the Senate. He might do so in absolute frustration. I understand that one. That is, if an authorizing committee bottled up an important measure, never giving it a hearing, never giving proponents a chance to make their case. But, if this proposal has never seen the light of day, if it has never been debated, if Senators with an interest in the issue have never had a chance to even listen to or participate in a discussion on the merits of the proposal, the fault cannot be with the Committee on Veterans' Affairs. The bill was introduced July 29. As I say, within days of introduction we recessed to allow the Presidential nominating conventions to take place. Now, having returned with bags hardly unpacked, we find before us an amendment creating a huge precedent-setting new entitlement. If this proposal has never seen the light of day, it is not because it has been forgotten in some committee's "hold" box. This amendment has not seen the legislative light of day because not enough time has elapsed for the legislative sun to even rise.

This amendment creates a new entitlement and the constraints of the Budget Act apply. I note the amendment's budget neutrality is obtained by reversing the Supreme Court's Gardner decision. I mentioned that before. That may seem like esoterica of the first order to you, but, without going into detail, that decision expanded an existing veterans' benefit in a way that was never intended by the Congress.

But I also note the fiscal year 1997 budget resolution, which is still in effect, includes savings from the reversal in Gardner and the assumptions behind the reconciliation instructions for the Committee on Veterans' Affairs. That is what it is. The savings from reversing Gardner are the foundation of the veterans committee bill that we will report out, if we are called upon to achieve $5.271 billion in 6 years savings needed to comply with the budget resolution.

If those savings are used instead to pay for this bill, they will not be available to the committee. That means we would have to do something else to reduce veterans' benefits.

The amendment's use of Gardner savings is not an offset, I say to my colleagues. It merely shifts the responsibility of finding an offset off the back of the amendment and into the lap of the Veterans' Affairs Committee. Period.

Costs of the amendment will not be borne by some abstract bookkeeping account. The costs will be borne by yet unidentified beneficiaries of whatever program the Veterans' Committee is forced to attack to compensate for this amendment's use of Gardner's appeal.

All the groups are not for this amendment. I have heard nothing from the DAV, the Disabled American Veterans. You would think you would hear from them. You know what they are thinking: This is going to take money away from disabled veterans to give to dependents of veterans. We have never done that with this kind of an entitlement, ever. They know that.

So do the Paralyzed Veterans of America. You have not seen anything from them. They do not dare speak out, but they are not aboard here in the letters of support, because they know there will be one population that will really be hammered in this process, and that is those who are disabled; veterans who are disabled, not the children of veterans who are disabled.

This amendment is rooted in a study did not prove anything and whose significance is reduced by confusion and bias and confounding.

This amendment is wholly premature. Yes, the administration has proposed legislation on this subject. That was received July 25 when it was slipped under the Veterans' Committee door. So, there was not much opportunity to look at this one.

I think we should have more than 4 or 5 legislative days in the light of day before reaching the Senate floor. But the objections to this amendment are not limited to procedural questions of jurisdiction and process.

I also believe the amendment is fundamentally flawed on the merits. Sure, there are a lot of unresolved questions to be resolved in a calm and reflective manner before the Senate goes forward with such an expensive and expansive program, but the amendment hangs or predicates itself on several assumptions.

First is that exposure to herbicide causes spina bifida, a serious defect in the exposed father's children.

Second, that Vietnam veterans were, in fact, exposed, and every single link in that chain of reasoning is subject to dispute. This is the kind of thing that is best resolved through the complete legislative process: introduce the bill, solicit evidence, comments, hold hearings, seek review of experts and interested parties on both sides, hold a markup, consider amendments, and then bring the bill to the floor.

This amendment has short circuited that process. That is what we do here, and as a legislator who has been doing this stuff for 30 years, who appreciates beautifully the wisdom of the legislative process, I am greatly saddened by that. In 30 years, I have never been an administrator, never wanted to be President, never wanted to do anything but legislate. If you are doing it right, it is very dry work. It is not about emotion, it is not about press releases; it is about hard work. But I can't change that.

We will have to compress the entire legislative process into a few minutes, so here it is. Here we go. It will not take long.

Does a father's exposure to herbicides cause spina bifida in his children? There is very little evidence to support that assertion even though, as a result of all the furor over the years surrounding agent orange, the bookshelves have literally groaned under the weight of studies of the health effects of herbicides, but few, if any, of those studies have ever pointed to spina bifida.

Were Vietnam veterans generally exposed to a material amount of agent

orange? Whatever evidence, or lack of evidence, for association between exposure and disease, the only actual empirical evidence of exposure that is available to us does not support the theory that Vietnam veterans were generally exposed to agent orange.

Look at these charts—two of them—which depict measured blood dioxin levels found in two population samples. This upper chart shows a level found in a sample of 646 Vietnam veterans. The lower chart shows the levels found in a control group of 97 veterans who did not serve in Vietnam.

In each case, the vertical scale is the percentage of the sample population; the horizontal scale is the specific dioxin, TCDD, measured in parts per trillion, ppt.

In both groups, veterans who served in Vietnam and veterans who did not serve in Vietnam, the percentage of subjects begins to rise at a measured dioxin level of 2 ppt, peaks at about 3 and tails off into scattered individuals—that is what these symbols are, individuals, not groups—at about 10 parts per trillion.

By the way, these levels are consistent with measured blood dioxin levels for the general American population, which are in the same range of 0 to 20 parts per trillion.

So there it is. "ND" means nondetectable. Then you see this rise, then down, and after that, there is no effect at all up into 20 parts per trillion—nothing. This is the veteran population who were in Vietnam, and this is non-Vietnam veterans, and the charts are exactly the same—exactly the same. That is the kind of data you never consider when you are just using emotion. Those are studies from the CDC.

In short, based upon those samples, Vietnam and non-Vietnam veterans cannot be distinguished from each other on the basis of the measured dioxin levels in their blood, and neither group can be distinguished from the American population.

So the only evidence available to us, based on measured blood levels of dioxin in veterans, is not consistent with the hypothesis that service in Vietnam exposed most veterans to material amounts of agent orange.

Yes, I know, that is difficult. I am sure someone will be coming here to get in the fray, and I will be waiting for that.

Let me show you a second chart showing measured dioxin levels in several different populations. This chart depicts blood dioxin levels of numerous populations and compares the level found in Vietnam veterans, presumed to be exposed, with the levels found in populations known—known—to have been exposed.

So let's look at that. We are not guessing here. We are going to talk about populations known to be exposed. The horizontal scale is blood dioxin levels in parts per trillion. The top group depicts the measured blood dioxin levels for Vietnam ground troops with high, low, and medium opportunities for exposure, as well as the measured level of the control group known not to have been exposed.

All these groups have identical, and low, levels of blood dioxin. That finding is consistent with the hypothesis that Vietnam veterans do not have material exposure to agent orange. The level for the control group and the exposed group are the same. Let's go to the next little chart. We find a group of bars down there depicting the measured dioxin levels in a control group and in four categories of the Ranch Handers. Now Ranch Handers, a cohort of about 2,700 people, if I recall, 2,300, are the Air Force personnel who did the actual agent orange spraying.

Of course, that would be the group we used in our studies. And why not? We knew what they were doing. I point out that you should know what they were doing. They were mixing it, loading it, labeling it, spraying it, kicking it out of the helicopters with an open lid, and cleaning it up. That is who they are.

For the control group and the Ranch Hand officers the measured blood dioxin levels are rather low. And their level is about equal to the level found in the ground troops. But the levels for the enlisted Ranch Hand personnel are elevated, a finding which you would expect for people who actually mixed, loaded, sprayed and cleaned up the agent orange.

A little lower on the chart we find the third grouping of measured blood dioxin levels. These are levels measured in workers with known occupational exposures to dioxin. They are measurements for a group of German industrial workers and New Zealand agricultural sprayers. Then there are the levels found in the most exposed quintile, as the phrase is used in graphs, of an occupational study conducted by the U.S. National Institute of Occupational Safety and Health. That study broke its subjects down into five quintiles with progressively greater opportunity for exposure.

The measured blood dioxin level increases proportionately with exposure, as one would expect. Except for the lowest exposure NIOSH group, that is the National Institute of Occupational Safety and Health subjects, all occupationally exposed groups have measured blood dioxin levels higher than both Ranch Handers and Vietnam veterans.

Then finally—and you have heard mention of this extraordinary disaster—the bottom bar shows the measured blood dioxin levels for residents of Seveso, Italy, a town heavily exposed to dioxin as a result of a horrible accident where they were exposed to dioxin as a result of an industrial accident.

The chart shows that the blood levels for Seveso residents who developed chloracne, which is a known effect of dioxin—no one argues that—are higher than the blood levels of those who did not. And we would certainly expect that. I ask my colleagues to note that the scale of this chart is exponential above 100 parts per trillion—off the chart, if you will. And the chart documents the fact that Seveso residents have measured dioxin blood levels which are thousands of times higher than that found in any Vietnam veterans, Ranch Handers or non-Ranch-Handers.

And this is the reason for the chart. All of the followup studies of the individuals whose blood serum dioxin level are documented on the chart do not report any increased rates of spina bifida in the children of these heavily exposed individuals. Remember that these are people, individuals with documented heavy exposure to dioxin. In the case of the Seveso residents with chloracne, the measured blood dioxin levels are over 10,000 times greater than that for Vietnam veterans.

If spina bifida were associated with exposure, we would find increased rates of spina bifida in these populations. And there is none. And the greatest increases would be in the population with the highest measured blood dioxin levels. And there are none.

In fact, the only group with any increase in the rate for spina bifida is in the Ranch Hand group. And as we will see, the principal investigator of the Ranch Hand study has testified before this Congress that limitations in that study mean that this finding should not be used to draw conclusions about birth defects. That is what the principal investigator said. That testimony I will be glad to present to my colleagues.

The documented higher dioxin levels for enlisted Ranch Handers—compared to other Vietnam veterans—also means that even if someday there were to be a valid study showing adverse effects in these Ranch Handers, those conclusions may not be applicable to the Vietnam population as a whole.

This would be especially true if the proposed application of such a study would be to support the creation of a new entitlement applicable to all Vietnam veterans. I noted earlier, the Ranch Hand study is not such a study according to its principal investigator.

So both of those charts are based on actual measurements. Both are taken from the 1996 update of the Institute of Medicine, the IOM, agent orange report. I will be glad to share this with anyone who may wish to have it. This update is the foundation for both Secretary Brown's prostate cancer decision and Senator DASCHLE's spina bifida amendment. And where did they come from? They originated with the CDC and they came from the IOM, the Institute of Medicine. This is the same report that has been relied upon by the

very capable minority leader. We are using this same thing.

In enacting the old Public Law 102–4, which I was involved in, the Congress enacted a three-part standard for determining if there was an "association."

Mr. President, I ask unanimous consent that portion of the statute be printed in the RECORD. I have previously spoken about it.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

(d) SCIENTIFIC DETERMINATIONS CONCERNING DISEASE.—(1) For each disease reviewed, the Academy shall determine (to the extent that available scientific data permit meaningful determinations)—

(A) whether a statistical association with herbicide exposure exists, taking into account the strength of the scientific evidence and the appropriateness of the statistical and epidemiological methods used to detect the association;

(B) the increased risk of the disease among those exposed to herbicides during service in the Republic of Vietnam during the Vietnam era; and

(C) whether there exists a plausible biological mechanism or other evidence of a causal relationship between herbicide exposure and the disease.

Mr. SIMPSON. The statute talked about statistical association, increased risk and casual relationship. So that is where we are. The IOM, the Institute of Medicine, said there is "limited suggestive evidence" of an association between exposure of a father and spina bifida. That is largely based on the Air Force Ranch Hand study. The study found that three Ranch Hand children were born with spina bifida.

Do not stop there. The same study also found that the total rate for birth defects in Ranch Handers is comparable to that of the control group. How is that possible? Well, it is quite logical, because when statisticians break aggregate or average data down into its component parts, individual values start to spread out away from the norm. So it is with the Ranch Hand children.

For example, while the Ranch Hand spina bifida value is high, the Ranch Hand cleft palate value is low—zero in fact. The low value for cleft palate does not mean that agent orange prevents cleft palate any more than the high value for spina bifida means that agent orange causes that birth defect or even there is an association between the two.

I remember an old phrase that said, "If you torture data long enough with statistics, they will eventually confess." And that is what has happened here. If you torture data long enough with statistics, eventually it will confess.

One other thing with a thought experiment. I think I will shorten my remarks in the interest of moving on through this day. But we could go on and make all sorts of comparisons about the health of the House Members and the Senate Members and whether they have this or have that. We could all find that they have more kidney disease, more heart disease in one body or another, and you could play with that stuff all day and all night. You are going to find those differences. But we are trying to use sound medical and scientific evidence because that is what the law says.

There is a name for this scientific sin of combing raw data until you find data skewed in the direction you want to go and then formulating a hypothesis on that finding. That is called "data mining." And using the Ranch Hand study as the basis for forming a conclusion, rather than using the findings as the basis for forming a hypothesis for testing, is to commit the sin of data mining.

I think you want to remember that the principal investigator for this study, Dr. Joel Michalek, testified before a House committee that his findings did not support the conclusion that there is a linkage between spina bifida and agent orange. That is it. That is the only evidence we have. We are ignoring that?

The academic reviewers for the journal Epidemiology drew no attention to, or conclusions from, the birth defect findings when they published the Ranch Hand study.

The IOM said this, "any positive conclusion is vulnerable to chance, bias and confounding." And so all I can do is present my colleagues with the facts. Others can come to present the emotion. And they will be here. And I will continue to try to present the facts. There is not one of us here—and certainly not this Senator—that does not care about people who have spina bifida or care about Admiral Zumwalt's son, a tragic thing. And that dear and remarkable American feels that agent orange is the destruction of that fine young man. And that may well be. No one—no one—cares less for those people. I hope we can keep that out of debate. When we come to the debate, bring facts. Everyone is entitled to their own opinion, but nobody is entitled to their own facts.

There have been thousands of studies of veterans, farmers, agriculture workers, and industrial workers who either were or are presumed to have been exposed to herbicides or their component chemicals, and all of those studies—every single one of them —provide little support for the theory that Agent Orange causes spina bifida. Dioxin does cause chloracne, and that is why we have made it a presumptive disease. It may cause other things, and that is why we made other diseases presumptive diseases.

But the use of the Ranch Hand study to support making birth defects presumptive, as is being done today, is to use the study for a purpose disavowed by its principal investigator. That has to be at least heavy in your consideration.

With that, I see my colleagues have fled or have absented themselves from the Chamber, so I probably should fill the void, but I think the word should go out we are certainly ready to proceed with the debate or yield back time. I am ready to do that, but I do not wish to cut off anyone in the debate, either the minority or the majority side. So rather than have a quorum call, I shall proceed. However, let the word go out through the network that if anyone wishes to debate this issue further they should present themselves. If not, we can conclude the debate and go to the procedural motion that will be made by the Senator from Missouri.

Again, I want to reiterate that we really do some good things for people who have this disease. I have cited that. But I think one of the most unique is the private sector, the remarkable group known as the Shriners, those fellows you see in the parade with the fez—older now, but just as caring and loving of their fellow man and woman, and especially children. They provide care for any child in this Nation with spina bifida, and especially if you cannot afford to pay. In fact, that is really the requirement. They will treat that child only if the parents can afford to pay nothing. There is never any reimbursement. Those remarkable people support those hospitals, and you do, too. I want that clearly said.

We are always talking about, what can the private sector do? How can they begin to take the burden off Medicare and Medicaid? This is one way. We put a redundant program together just so we can not say that the VA has not done anything for these victims. Even though others are serving them, we still want the VA to do it. That is how we get to a $6 trillion debt within the next few years—a $5.2 trillion debt—even if we balance the budget. Under all these horrible proposals described by some of my brethren, the budget will be balanced in the year 2002, but the debt will be $6.2 trillion.

Half the American people believe that we all got together and balanced the budget, and that may be so. That would mean the deficit will be gone; whether it is $160 billion or $200 billion, just pick your figure. But, Members, the debt of the United States will have marched on like "Old Man River." That is why everybody is asleep. The debt, after balancing the budget in the year 2002, the debt will then have gone to 6.2 trillion bucks. Why is that? Is that the ghost of Ronald Reagan doing that? Is that Clinton doing that? No. Right here. This is where we do it—Democrats and Republicans do it. We do it to get reelected.

You just saddle this new group of human beings with a burden that they

can never, never tolerate and do it for the best reasons—the children, the veterans, the seniors. No affluence testing, no measurement of what you put in and what you get out, no measurement of your net worth. That game is going to end—not in my time, but it will end—because there is no way it can be sustained.

It is as if we are talking about messing with the deck chairs on the *Titanic*, which has been partially lifted and then returned to the depth, which is about where we are with the debt. There is no way to arrange these deck chairs unless you do something with Medicare, Medicaid, Social Security, Federal retirement and the national debt interest, period.

So maybe we can hear less about those who care less—if I hear that again, I will be wanting to toddle right over here from my office—or that somehow one party cares more than another about human beings. That is pure balderdash. It is ugly. It is crude. It does not fit, because I do not know anybody in the Democratic Party or the Republican Party that is interested in doing a number on anyone of the lesser of society. We are interested in trying to do something to see that there is something left for those people in 10 or 20 years. If that is cruel, I am proud to join that pack, because I think that is the greatest abrogation of responsibility for our generation, to just leave a tattered pile of IOU's for a bunch of young people who apparently are not paying attention or who know that there will not be anything in the till for them anyway.

With that, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. Mr. President, I join my distinguished colleague from South Dakota, Senator DASCHLE, today as a cosponsor of the Agent Orange Benefits Act Amendment of 1996. I find myself year after year after year giving voice to those Vietnam veterans who still are suffering as a result of their service in Vietnam. Thirty years ago agent orange was sprayed in Vietnam—30 years ago—and we are still debating the bias of each individual analyzing the evidence of its health impact on the veterans and their children. The families who suffer deserve our cooperation. It is time to stop debating and move forward.

This amendment does just that. It takes another crucial step forward in repaying our debt to those who have served their country. In some cases, that is a dear debt, indeed.

The legacy of Vietnam has cast its dark shadow on many aspects of our daily lives, changed the way many of us think and view war. Today we seek to address the shadow that has been cast over some children of Vietnam veterans.

Mr. President, the amendment we are proposing today would extend health care and related benefits to children of Vietnam veterans who suffer from spina bifida, a serious neural tube birth defect that requires life-long care—provided, of course, the children were conceived after the veterans began their service in Vietnam. These children have become the next innocent victims, victims in a long line, who are suffering from the effect of agent orange.

Senator DASCHLE, Senator ROCKEFELLER, I and many others have worked for the past decade to try to bring to a fair and just resolution the questions surrounding agent orange and the effects it has had on the men and women who faithfully served this country. In 1991, we coauthored the agent orange Act of 1991 which required the Institute of Medicine—part of the National Academy of Sciences—to conduct a scientific review of all evidence pertaining to the connection between exposure to agent orange and other herbicides used in Vietnam and subsequent occurrence of health-related conditions. As a result of this law, a report was issued by the National Academy of Sciences in March 1993 and it was to be followed by biennial updates for the next 10 years.

The first report published by the National Academy of Sciences in 1993 created four categories to classify the level of association between certain health conditions and exposure to agent orange. Category I contains conditions for which there is sufficient evidence of an association. Category II contains conditions for which there is limited or suggestive evidence of an association. After 1993, the VA provided compensation for all conditions contained in categories I and II. Conditions for which there is inadequate or insufficient evidence to determine whether an association exists were placed in category III and compensation was not provided for them.

When the latest of the NAS biennial updates was issued in March of this year, it cited new evidence supporting the link between exposure to agent orange and the occurrence of spina bifida in children of veterans who served in Vietnam. The NAS panel moved "spina bifida in offspring" from category III into category II, based on the results of three epidemiological studies which suggest that a father's exposure to herbicides may put his children at a greater risk of being born with spina bifida. The Ranch Hand Study, which examined a group of veterans who were directly involved with spraying 19 million gallons of chemical defoliant in Vietnam during the war, was the largest of these studies. Over the past 2 years the results of the Ranch Hand study have been reanalyzed by the U.S. Air Force, and this new analysis reinforced evidence of a connection between agent orange exposure and spina bifida in offspring that had been found in other studies. This ultimately led to the committee's conclusion that there is limited or suggestive evidence of an association. I ask unanimous consent to place an article in the RECORD that discusses at length the basis of these findings.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Journal of the American Medical Association, Apr. 10, 1996]

NEW IOM REPORT LINKS AGENT ORANGE EXPOSURE TO RISK OF BIRTH DEFECT IN VIETNAM VETS' CHILDREN

(By Joan Stephenson)

New Evidence reveals a tentative link between exposure to chemical defoliants that were used in the Vietnam War and an increased risk of spina bifida in veterans' children, according to a recently issued report by the National Academy of Sciences' Institute of Medicine (IOM).

The congressionally mandated report, Veterans and Agent Orange: Update 1996, is the second in a series of biennial reassessments of the health effects of Agent Orange and other herbicides. In addition to noting limited or suggestive evidence of an increased risk of the birth defect in exposed veterans' children, it said that new studies confirm the 1994 report's finding that there is sufficient evidence that exposure to these chemicals is linked with soft tissue sarcoma, non-Hodgkin's lymphoma, Hodgkin's disease, and chloracne.

The report also described "limited or suggestive" evidence, based on studies of occupational exposure to herbicides or dioxin outside of Vietnam, that exposure may be linked with acute, transient peripheral neuropathy. However, a link between chornic peripheral neuropathy and exposure to these chemicals was not supported by the overall data.

THOUSANDS EXPOSED

United States military forces sprayed nearly 19 million gallons of herbicides, including more than 11 million gallons of Agent Orange, over Vietnam between 1962 and 1971, to strip vegetation that helped conceal enemy troops. Thousands of US troops were exposed to varying doses of these chemicals, which were sprayed from airplanes and helicopters, from boats and ground vehicles, and by soldiers wearing equipment mounted on their backs.

After a 1969 report that concluded that one of the chief chemicals used in Agent Orange could cause birth defects in laboratory animals, use of Agent Orange was halted in 1970. All herbicide spraying in Vietnam ended by 1971.

"Since that time, some of the 3 million Americans who served in the Vietnam War have wondered whether their exposure to herbicides may have caused them to develop cancer, or caused their children to have birth defects," said David Tollerud, MD, MPH, of the University of Pittsburgh (Pa) School of Medicine, at a press briefing. To address these concerns, Congress passed the Agent

Orange Act of 1991, authorizing the National Academy of Sciences to review studies concerning the health effects of herbicide exposure and to reevaluate the evidence every 2 years for 10 years as new evidence accumulates, noted Tollerud, chair of the IOM committee that produced the report.

As in the first IOM report, the diseases were classified into four categories according to the strength of evidence (or lack thereof) linking health effects with herbicide exposure.

The top category includes conditions for which there is "sufficient evidence" of a positive association with exposure to herbicides of dioxin (a trace contaminant of herbicides). The second classification involves diseases in which "limited or suggestive evidence" suggests such an association—meaning that at least one high-quality epidemiologic study has found a link, but that the evidence is not conclusive enough to rule out chance or study bias influencing the results. The other two categories involve conditions for which there is "inadequate or insufficient evidence" to determine whether a link exists, or "limited or suggestive evidence of *no* association."

OPERATION RANCH HAND

The finding of "limited or suggestive" evidence of an increased risk of spina bifida in children fathered by veterans exposed to herbicides was based on three epidemiologic studies, the largest of which involved a reanalysis of a group of nearly 900 Operation Ranch Hand veterans who were directly involved in the handling and spraying of herbicides in Vietnam.

In the Ranch Hand study, researchers found three cases of spina bifida (plus one case of another neural tube defect, anencephaly) among 792 liveborn infants, compared with no cases occurring in a comparable group of children fathered by nonexposed veterans, for a rate of nearly four cases per 1,000 births. The rate of spina bifida in the general population is about five cases per 10,000 births.

Two other epidemiologic studies reviewed by the committee—the Centers for Disease Control and Prevention (CDC) Vietnam Experience Study and the CDC Birth Defects Study—also suggest an association between herbicide exposure and increased risk of spina bifida in children. But the report noted that while all three studies were of relatively high quality, methodologic limitations such as small sample size and possible recall bias mean that further study is required to confirm this apparent link.

Based on several occupational studies outside of Vietnam, the report also added acute, transient peripheral neuropathy lasting weeks, months, or longer to the list of health effects for which there is limited or suggestive evidence of an association with herbicide exposure.

Other diseases classified in this category in the first IOM report included prostate cancer, multiple myeloma, and respiratory cancers (of the lung, larynx, or trachea), and the new report reconfirmed those findings. Studies completed since the first report resulted in a reclassification of the evidence linking porphyria cutanea tarda and herbicide exposure from "sufficient" to "suggestive." New studies also prompted the committee to downgrade the classification of skin cancer from "suggestive" to "insufficient evidence of an association."

A QUESTION OF EXPOSURE

Unlike the other findings of the IOM report, the conclusions about an apparent link between spina bifida and herbicide exposure were based on studies of Vietnam veterans. However, most of the evidence reviewed by the committee about possible health effects from exposure to the herbicides used in Vietnam came from studies of people who were exposed to these chemicals either on the job or in industrial accidents.

Tollerud noted that a severe lack of information about the exposure levels of individual troops hindered the IOM committee's ability to assess the herbicide-related health risks faced by Vietnam veterans.

"Except for particular groups, such as those involved in Operation Ranch Hand and other groups directly involved in spraying operations, information on the extent of herbicide exposure among veterans is virtually nonexistent—and this limits how far we can interpret data [from studies of nonveterans] with respect to the veterans themselves," he said.

The majority of experts on the IOM committee agreed that it's not currently possible to quantify the degree of risk to Vietnam veterans from exposure to herbicides and dioxin. However, two committee members, Bryan Langholz, PhD, and Malcolm Pike, PhD, both of the University of Southern California, Los Angeles, School of Medicine, said that studies indicate that measuring trace levels of dioxin, which lingers in the body for years, and extrapolating backward could provide a useful measure of a veteran's original exposure.

If this method provides such a valid estimate—an assumption that many experts on the committee dispute—studies that measure blood levels of the chemical in Vietnam veterans would suggest that most veterans, particularly those who did not participate in herbicide spraying, were not exposed to very high levels of the chemicals, said Langholz.

Scientists hope that ongoing and future research efforts will help reduce some of the uncertainty about exposure levels of veterans. One possibility is the development of historical exposure reconstruction models, which involves combining existing data on such factors as the paths flown by airplanes involved in herbicide spraying with information on specific troop movements and meteorological conditions when spraying occurred, to determine levels of exposure of veterans. The Department of Veterans Affairs and the IOM are working together to solicit research proposals for such studies, said Tollerud.

Another area that still needs to be addressed is the possible health effects of herbicide exposure in the women who served in the Vietnam War, particularly potential reproductive effects and diseases that are usually or only seen in women, such as breast cancer and cancers of the female reproductive organs. The Department of Veterans Affairs is currently identifying and enrolling such women in studies to examine this issue.

"We hope that by the time the review process comes around in 2 years that there will be new information to address the gaps in knowledge that we now have about [herbicide-related] health effects in these women," said Tollerud.

Prepublication copies of Veterans and Agent Orange: Update 1996 are available from the National Academy Press by telephone (800) 624-6242 or (202) 334-3313 (Washington, DC, metropolitan area). The report's executive summary is available on the World Wide Web at http://www.nap.edu/nap/online/veterans/.

Mr. KERRY. The Secretary of Veterans Affairs, as mandated by the 1991 law, initiated a comprehensive review of the 1996 NAS report and made consequent policy recommendations to the President. Subsequently, in May, President Clinton announced that the administration would propose legislation to aid Vietnam veterans' children who suffer from the disease spina bifida.

Our amendment fulfills that commitment by recognizing and accepting responsibility for one of the serious health care needs of veterans' families that the preponderance of evidence suggests stems from the tragic effects of agent orange.

Since 1985, Vietnam veterans have been eligible for free health care from the Veterans' Administration for conditions that are related to exposure to agent orange. Veterans' disability compensation has been awarded to veterans affected by several agent orange-related illnesses including non-Hodgkins lymphoma, soft tissue sarcoma, Hodgkin's disease, chloracne, respiratory cancers, multiple myeloma, and, most recently, prostate cancers and acute and subacute peripheral neuropathy.

There are those who will stand before us today and argue that there is not enough credible evidence to make a positive association between exposure of a veteran to agent orange and the occurrence of spina bifida in that veteran's children, and that, accordingly, there are not sufficient grounds to add it to the list of conditions I have just mentioned. I will say again today what I said first back in May 1988, and repeated just last month:

> It is offensive to veterans to tell them that there is not enough "scientific evidence" to justify compensation . . . The evidence is in their own bodies, and even worse, in the bodies of their children.

Both the President and the Secretary of Veterans Affairs, Jesse Brown, have asked that spina bifida in veterans' offspring be considered service connected. If we do not act on this proposal today, we may not be able to do so this Congress. It will be pushed aside because of the tight schedule due to the election cycle this year. For 30 years many issues surrounding Vietnam have been put aside to be dealt with another day by different people. Mr. President, we cannot let this continue—we must act today and allow the pain to be eased for the children and their families who are suffering. This bill will grant the VA the necessary means to finally start providing needed care to these children who carry the scars of a war they never saw or fought.

I know that there is still controversy about the effects of agent orange. There may always be controversy, just as there may always be controversy about the Vietnam war itself. We as adults know that most frustrating of all this world's realities: there are some things we as human beings can never know for certain and which,

therefore, always will be controversial. But we must set aside the controversy—or put it behind us—to enable suffering children to receive the care and treatment they need when responsible, intelligent people acting in good faith can look back and discern the source of that suffering.

This is not just a theoretical concern to me, Mr. President. There are real human beings in my State of Massachusetts who are among the American veterans and family members whose lives have been effected by spina bifida.

I want to compliment the Democratic leader for his tenacious, exemplary leadership on this difficult issue. He has struggled valiantly to secure fair treatment for those who sacrificed so greatly for our Nation by their service in Vietnam. I thank him for permitting me to join him in bringing this amendment before the Senate today.

I also want to commend the distinguished Senator from West Virginia, Senator ROCKEFELLER, the former chairman of the Veterans Affairs Committee who now serves as its ranking Democrat. I hope the veterans of our Nation, those who served in Vietnam and those who served in other conflicts, realize what kind of friend—but, more importantly, what kind of effective advocate—they have in JAY ROCKEFELLER. His work and the work of his staff on this legislation were crucial, and I express my appreciation to them.

Mr. President, we must not permit our inaction or our lack of absolute certitude to make some of the children of our Vietnam veterans the last victims of the Vietnam war. I urge my colleagues to support this amendment.

Mr. BYRD. Mr. President, I am a cosponsor of the amendment offered by the distinguished Democratic Leader, Senator DASCHLE. This amendment, which is supported by the Vietnam Veterans of America and the American Legion, attempts to address a very painful legacy of the Vietnam conflict. It provides comprehensive health care and a very modest monetary allowance to the children of Vietnam veterans who suffer from spina bifida as a result of their fathers' exposure to the chemical defoliant Agent Orange during the the Vietnam conflict over twenty years ago.

Mr. President, the history of Agent Orange exposure has been sad, even shameful. After the Vietnam conflict, as veterans suffered, administration after administration failed to aggressively investigate the cause of their illnesses. Now, some twenty-two years after the end of the conflict, additional medical conditions are still being linked to exposure to Agent Orange. Just this spring, prostate cancer and peripheral neuropathy were added to the list.

For twenty-two years, the genetic legacy of Agent Orange exposure has been denied, although reproductive disorders and birth defects in their children have been among the Vietnam veterans' greatest Agent Orange-related health concerns. A congressionally-required National Academy of Sciences report of March, 1996, cited new evidence of a link between Agent Orange exposure and the occurrence of spina bifida in the children of exposed veterans. While not conclusive, the evidence persuaded the Secretary of Veterans Affairs to propose legislation to provide for these unfortunate children.

This amendment is necessary because, while the Department of Veterans Affairs has recommended that spina bifida in Vietnam veterans' children be recognized as service-connected, the VA does not have the authority to extend health care or other benefits to children of veterans. Separate legislation authorizing this service connection, which Senator DASCHLE introduced in July with my support, is unlikely to be passed in the limited time remaining in this Congress.

Mr. President, spina bifida is a crippling birth defect caused by the improper development of the vertebrae or spinal cord, resulting in varying degrees of paralysis of the lower limbs. The damage is permanent and incurable. Treatment includes surgery, medication, physiotherapy, and the use of assistive devices like braces, crutches, or wheelchairs. These are not conditions that are outgrown; spina bifida victims must learn to control and live with these dysfunctions. Ongoing therapy, medical care, and/or surgical treatments are necessary to prevent and manage complications throughout an individual's life.

These children are the hidden victims of the Vietnam conflict. They are the sad legacy of war, an uncounted and unwanted cost of conflict. As a nation, as a Congress, we spend hundreds of billions of dollars preparing for and conducting military operations. We are profligate spenders on the front end of a military operation—nothing is too good for the troops, and you can't have too much of a good thing.

But when it comes to the tail end of a military operation, the aftermath of conflict, we become parsimonious and begrudging. We provided for the veterans of the Vietnam conflict, but only after years of study and review. We have been even slower to address these secondary casualties, the children with spina bifida.

Mr. President, there is considerable reluctance to admit to the delayed costs of conflict, let alone to plan and budget for these costs. If we required veterans' health care and compensation to be included in our cost estimates before we began a military operation, we might think twice about committing our troops. And if we acknowledge the potential effect of military operations and the exposure to hazardous materials on the next generation, as I believe we should, these cost estimates can only rise.

I am glad that, finally, the government is meeting its responsibility to provide for the Vietnam veterans children with spina bifida. They are casualties of war as surely as if they were hit by a bullet. I am only sorry that it took so very long, and that we cannot do more.

In the Vietnam conflict, there was agent orange. In the Persian Gulf, there now exists the possibility that U.S. troops were exposed to chemical warfare agents, which can also cause birth defects. I offered an amendment to the Defense authorization bill that would have provided health care for the children of Persian Gulf veterans who have birth defects or catastrophic illnesses while research is conducted to investigate the possible link between these childrens' conditions and their parents' possible exposure to chemical warfare agents or other hazardous materials.

I asked that these poor children and their families be given the benefit of the doubt, that they not face the same long and difficult road traveled by the Vietnam veterans and their children. Some argued that I have attempted to set a bad precedent in providing health care before the science has been conducted to prove the link between cause and effect. Well, I would rather be accused of an excess of compassion than its dearth. It has been 5 years, and no research has been conducted. Under $30 million a year is needed to care for these children, and to provide relief to these families. Of the hundreds of billions spent each year on the military establishment, I do not find $30 million an excessive amount to treat the smallest and weakest of our military families. Similarly, the price tag associated with providing for the children with spina bifida is modest. It is not an economic hardship to address our responsibility to these children.

Before each conflict, we talk about what national security interests are at stake. Mr. President, if our children, our future generation, are not our most vital national security interest, then what have we fought for? Hazardous exposures have long been associated with the battlefield, but now that science can confirm that such exposures affect our children and our future, we must not shirk from acknowledging our responsibility. In the Gospel of Mark, we are reminded of the Lord's words: "suffer the little children to come unto me, and forbid them not: for such is the kingdom of God." Senator DASCHLE has offered an amendment that would address the health care needs of the children who are the innocent victims of the Vietnam conflict, and in doing so, he brings us all a little closer to the kingdom of God. I commend Senator DASCHLE for his compassion and his effort on the behalf of these children. I

am a cosponsor of this amendment, and I urge my colleagues to support it.

Mr. FEINGOLD. Mr. President, I rise today in strong support of the amendment offered by the distinguished Democratic leader, Mr. DASCHLE. I am proud to be an original cosponsor of this amendment.

Mr. President, many statements have been made here on the Senate floor over the years about the need to honor the debt we owe our Nation's veterans. If there ever was a nonpartisan issue, it is the need to keep the promises we made to those who sacrificed by defending this great Nation and the principles it stands for.

We have a long and proud history of compensating our veterans for injuries and wounds they sustained in combat situations. Millions of veterans have had to endure sickness, disability, and even paralysis as a result of their military service and we must continue to ensure that there is adequate funding for research as well as for the facilities and medical care needed to care for these men and women.

During the course of the Vietnam war, thousands of our service personnel who returned from Southeast Asia were stricken with ailments associated with exposure to the chemical herbicide known as agent orange. After years of pressure from veterans organizations and distinguished Americans such as Adm. Elmo Zumwalt, Jr., the former Chairman of the Joint Chiefs of Staff, the Government finally began to provide health care and other important benefits to veterans suffering from exposure to agent orange.

That is why Vietnam veterans have been eligible for free VA health care for agent orange-related conditions since 1985 and that is why disability compensation has been provided to Vietnam veterans for ailments that are believed to be directly related to exposure to agent orange such as non-Hodgkin's lymphoma and respiratory cancers.

Today, I join the distinguished minority leader in offering the U.S. Senate an opportunity to make another down payment on that often talked about debt that we owe our veterans. The amendment that we are offering today will extend health care and related benefits, including a monthly monetary allowance, to the children of Vietnam veterans suffering from spina bifida.

Spina bifida is a neural tube birth defect that requires lifelong care. As has already been pointed out, a recent report from the National Academy of Sciences has provided new evidence demonstrating a link between the occurrence of spina bifida in the children of veterans to a veteran's exposure to agent orange and other toxic herbicides in Vietnam. In light of the empirical data that does indeed demonstrate a correlation, I believe it is the Federal Government's responsibility to ensure that these children receive the necessary medical care to treat this ailment.

We will surely hear criticism today on the Senate floor that this legislation will create another entitlement program that the Government cannot afford. Mr. President, this Nation made a decision long ago that our courageous service members were entitled to certain benefits, most importantly access to quality medical care for health problems that arise as either a direct or indirect result of their service to this country. We are talking about innocent children here, who have been stricken with a serious, disabling condition as a result of their father's service in Vietnam. Is there definitive proof of this? No. Is there a strong likelihood that this is the case? Yes, and so long as the evidence suggests such a correlation exists, we must continue to fulfill our obligation to our veterans and their families.

I am also pleased that this legislation is fully funded with a cost offset. By reforming the Gardner decision—a move that even the major veterans organizations recognize needs to be made—this legislation is fully paid for with additional savings being dedicated to reducing the Federal budget deficit.

Mr. President, this legislation has the strong backing of a number of organizations, including the Vietnam Veterans of America, the Veterans of Foreign Wars, the American Legion, the Spina Bifida Association of America, and the Clinton administration. I want to commend the Democratic leader for his longstanding leadership on this and other issues important to our Nation's veterans. Our veterans have fulfilled their commitment to this Nation, and we must fulfill our commitment to them.

I urge my colleagues to support the amendment and I yield the floor.

Mr. THURMOND. Mr. President. I rise today to discuss the amendment offered by the minority leader to the VA/HUD appropriation bill. This amendment would authorize the Department of Veterans Affairs to provide comprehensive medical care, vocational training benefits, and compensation benefits for certain children of Vietnam veterans who are born with spina bifida.

The proponents of the amendment offer an emotional argument. I am very concerned about those who suffer from this condition. I recognize that these children and their families face many challenges and financial burdens.

The issue before us, however, is not whether spina bifida is or isn't a horrible condition. No Senator would argue otherwise. I am confident that each of us has compassion for the children and their families. As a veteran myself, I have been an ardent supporter of our Armed Forces and veterans. I have voted in favor of benefits for all veterans, including those exposed to agent orange and Persian Gulf war veterans.

What this body must determine, is what legislation is appropriate at this time. I do have concerns about this amendment, as it is offered on this appropriations measure.

Historically, benefits for dependents of veterans have been based on the death or disability of the veteran. This amendment would, for the first time, authorize VA to provide benefits to a person not a veteran based on a possible relationship between that individual's disability and a veteran's service. The committee of jurisdiction should carefully consider such an unprecedented extension. However, no such hearings have occurred to fully examine the consequences of extending benefits. Therefore, I consider this amendment to be premature.

Under this amendment, children of veterans would be provided comprehensive medical care. The Veterans' Affairs Committee recently approved an extensive overhaul of eligibility rules and priorities for health care. Under that legislation, veterans would be enrolled into the VA health care system, with a cap on total health care expenditures. The extension of medical care to dependents of veterans will result in a decrease of medical care to veterans.

Next, the amendment provides for vocational training benefits and for compensation. Under the proposed framework, the Secretary of Veterans Affairs would pay a monthly stipend, based on the level of disability. These benefits would not be paid out of discretionary funds, but, as a new entitlement program, are considered mandatory spending. Because it would affect direct spending, a spending offset will be required. Again, the Veterans' Affairs Committee would be required to pay for this new entitlement to dependents of veterans, of unknown costs, by reducing benefits established for veterans. I believe that creating a new entitlement on this appropriation measure is inappropriate.

Finally, I have reservations regarding the underlying merits of the study on which the amendment is based. In short, the science is inconclusive. The Institute of Medicine stated the study shows limited/suggestive evidence of an association between exposure to herbicides and spina bifida. The principal investigator of the primary study on this issue testified earlier this year before a House committee that the study is inadequate to establish a cause and effect relationship. The VA task force that reviewed the Institute of Medicine report noted that scientific questions remain. Because scientific questions remain, it would be prudent to further study and resolve all open issues before embarking on a new entitlement program that would take away from existing veterans' benefits.

Mr. President, because this amendment is premature, is inappropriate for an appropriation bill, and is based on inconclusive science, I will not vote to amend the VA–HUD appropriations bill as proposed by the amendment. Again, I emphasize my support for veterans, my concern and care for the children with spina bifida and their families. I am sure the Congress will continue to review this issue and address the open questions in a more appropriate forum.

Ms. MIKULSKI. Mr. President, I rise to support Senator DASCHLE's amendment. I join such groups as the American Legion, Vietnam Veterans of America, Veterans of Foreign Wars, and Disabled American Veterans in supporting this effort initiated by the President and spearheaded in the Senate by the minority leader.

Senator DASCHLE's amendment seeks to help the innocent victims of a war fought long ago. Just as there are lingering psychological wounds from the war, there are veterans and their families who struggle with the lingering physical impacts every day. This amendment will provide health care and benefits to children of Vietnam veterans who suffer from spina bifida, believed to be caused by their fathers being sprayed with agent orange.

I have a long record of fighting for our Nation's veterans. I have fought for adequate health care and benefits funding as both the chair and ranking member of the VA–HUD Subcommittee.

I've fought to ensure vets receive quality of service and effective and accessible VA facilities. I also worked to make sure the VA provided the services especially appropriate for women veterans.

I am determined that we never forget America's veterans. They fought to protect Western civilization, preserve freedom, and defend democratic governments. They fought overseas to protect those of us at home.

I am determined that promises made must be promises kept. We must say thanks to vets with concrete actions, not just flowery rhetoric. Medals are nice, but the Nation has a responsibility to help veterans who risked their lives and returned home to find their lives and the lives of their children changed forever.

The minority's leader's amendment reminds us that many Vietnam vets were exposed to agent orange. A March 1996 National Academy of Sciences report noted that exposure to that substance may cause spina bifida in veterans' children.

The VA estimates that up to 2,000 children of Vietnam era veterans may be impacted. This amendment ensures that they would be provided appropriate health care and monthly benefits.

And furthermore, this amendment is paid for. The minority leader's amendment includes an offset that more than covers the anticipated cost of these expanded benefits.

While some would say this is an issue that can wait, and calls for further study, I say we really should not wait. We must not forget that spina bifida is an incurable disease that isn't going away for those affected. Those kids cannot wait one more year, for one more study. It may be easy for some of us to forget the war, or not to quite remember the war. For all of those who like to go into parades and talk about what they want to do to help the veterans, I believe that for many veterans who served in Vietnam, one of the ways we can show our respect is to make sure that children who have birth defects because of what their fathers were exposed to in Vietnam are protected. That is what the vets would like. They fought a war. We can call it a war. We should call it a war, and we should remember that. Yes, they want the GI benefits and, yes, they appreciate the VA medical care. But I know of no Vietnam vet that would not be proud of the fact that we looked out for their children.

There is concern about the study. Some say the linkage between agent orange and spina bifida for children of the vets is too skimpy. But I want to bring out the fact that the law that was passed related to agent orange says that there only need be a positive association, not a definitively determined cause and effect.

So the National Academy of Sciences shows that there is a positive association between agent orange and these children who have spina bifida. That is what Senator DASCHLE is standing on. We support him. We are supported by the VA and so many other groups. I hope when the Democratic leader offers his amendment, it is one of those that passes 99 to 0. We really don't need to make the children of Vietnam veterans subject of a heated debate on the floor. That outlines my thoughts in the area. If there is substantial debate, I anticipate that I may participate even further on this. I hope my colleagues will give this very serious consideration.

Mr. BOND. Mr. President, we are waiting for somebody to offer an amendment. We have heard that people are on the way. We would like to get the amendments offered. We have a limited list. If there are any who have amendments on which a vote might be needed, we ask them to contact the floor and come forward. We would like to move forward. I hope we can get time agreements and finish up the bill this evening. But at this juncture we are depending upon the Members who wish to offer amendments. I invite any and all of them to come forward.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BOND. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. SNOWE). Without objection, it is so ordered.

Mr. BOND. Madam President, earlier today we were worrying about whether we could get a 4-hour time agreement to limit debate on the amendment that the minority leader is going to offer. There was a good couple of hours, 2½ hours, of debate, and the amendment has not been offered. We are open to do business.

If anybody has arguments for or against it, I would invite him or her to come present those arguments. I understand the minority leader is temporarily involved in another hearing and has not been able to present his amendment. There is no amendment pending.

We welcome anyone who wants to discuss the bill or discuss amendments which they will offer. This is the prime time of day when we ought to be doing the business of the Senate. This is the third day we have been on this bill. The ranking member and I have been here, ready and willing to move forward. We are running short of time in this legislative session, and we have this and a number of other very important measures to conclude.

So I make an earnest plea to people on both sides of the aisle who want to talk about this bill, or particular issues, to come forward and do so, please. Let us use the time of the Senate productively. We are here. We are ready. We are waiting to do business. We welcome such views and such enlightenment as our colleagues would wish to share with us.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. INHOFE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. Madam President, I ask unanimous consent I be allowed to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

CHEMICAL WEAPONS

Mr. INHOFE. Madam President, the Senate will soon be asked to ratify the Chemical Weapons Convention. The intent of this treaty is to implement a worldwide ban on the production, possession, and use of chemical weapons, which is something we would all agree to; if it were something that was enforceable or verifiable, that we would be a party to. However, most of the experts I have talked to—people like

Caspar Weinberger, Jeanne Kirkpatrick, William Clark, I even had a conversation with Dick Cheney—have serious questions as to whether or not this is in the best interests of the United States.

The problem we have, one of many problems, but the major problem we have with the CWC, the Chemical Weapons Convention, is that it does not include those countries that pose the greatest threat to our Nation's security. I am talking about Libya and Iraq, North Korea, Syria. They are not a part of this. Even if they were a part, I would not believe they would actually live up to their commitment. But, again, they are not. Some countries have signed onto the treaty but they have not ratified it. We seem to be acting as if all those countries that have signed the treaty ultimately will ratify it. I do not believe that is the case.

Even in the case of Russia, if they did, the Senator from North Carolina here can remember, back in 1990, when the Russians and the United States, then the Soviet Union and the United States, had a bilateral destruction agreement, yet the Russians have not lived up to it—not because they do not want to, necessarily; because they say they cannot afford to. In fact, they said if you in the United States expect us in Russia to live up to the bilateral destruction agreement of 1990, it will cost you approximately $3.3 billion. I do not anticipate there will be a lot of support for that.

They keep saying 160 countries have signed the treaty. This is fine, but they are the wrong countries. We do not have a problem, a threat of chemical warfare with Great Britain, with France, with Sweden, with these countries. It is the countries who are not a part of this that pose the threat.

The compliance with the Chemical Weapons Convention is not verifiable. Countries like China, India, Iran, Pakistan, and Russia have signed the Chemical Weapons Convention, but our ability to verify their compliance is doubtful at best. I think the best quote I can give is from the former CIA Director James Woolsey, who was the CIA Director under Democratic Presidents. He said:

> The chemical weapons problem is so difficult from an intelligence perspective that I cannot state that we have high confidence in our ability to detect noncompliance, especially on a small scale.

The U.N. inspectors, after the agreement was reached with Iraq back in 1991, have had all kinds of opportunities to look for chemical weapons in Iraq, yet many have gone undetected. So we will be asked to ratify this. I serve notice now I will be among the leaders in opposition to that ratification. I feel it is very similar to the ratification of the START II agreement. The START II agreement was an agreement that would force us back into a posture that we found ourselves in in 1972 with the ABM Treaty, which was with, at that time, the Soviet Union. It does not do any good for us to downgrade our nuclear capability, as was the case there, if we have 25 to 30 nations who are building a nuclear capability, who have weapons of mass destruction, who are working on the missile means of delivering them. I see a parallel here, an analogous situation.

What good does it do for us to agree to destroy all of our chemical capability if we are allowing those rogue nations that pose the greatest threat to the United States to still be able to have theirs?

I think one of the phoniest arguments, though, is on terrorism. I hope no one will give much credence to that. The President and his administration contradicted themselves the other day when the President was trying to lead us into this notion that, if we ratify the Chemical Weapons Convention, somehow it will make it more difficult for terrorists. He said:

> If the Chemical Weapons Convention were in force today, it would be much more difficult for terrorists to acquire chemical weapons.

Then a short while after that, in a response, Warren Christopher said:

> It is difficult to predict what impact the CWC will have on actual terrorist use of chemical weapons, as the CWC was not designed to deal with this threat.

He was exactly right.

So I hope we are not lulled into a false sense of security by ratifying a convention that is not verifiable and that is not participated in by those parties and those countries that pose the greatest threat to the United States.

I come from Oklahoma, and if a terrorist was able to get enough explosive power to blow up the Murrah Federal Office Building to the extent it happened there, I can assure you that the terrorists will also be able to get chemical weapons.

So, Madam President, I hope my colleagues share my concern about this, the harmful impact of the chemical weapons convention on our Nation's security, and will join me in opposing the ratification of this flawed agreement.

I yield the floor.

Mr. HELMS. Will the Senator yield?

Mr. INHOFE. Yes.

Mr. HELMS. I especially appreciate the Senator's comments, because there is so much confusion, so many extravagant statements have been made, Madam President, about how much good this convention will do, this treaty.

As I mentioned yesterday, Senator Sam Ervin, my first colleague from North Carolina when I came to the Senate—a pretty good constitutional lawyer—used to comment that the United States had never lost a war or won a treaty, meaning that we got short shrift by accepting so many treaties that didn't do the country any good.

But the thing that bothers me, I say to my colleague, and I am sure it does to him, is that so many—even in this Chamber, I am sorry to say—are willing to disregard the fact that the White House has stonewalled about allowing the Senate to have documents that the Senate is entitled to have with respect to this treaty. They refused, in some cases, they have obfuscated, they have made all sorts of excuses, and I am happy that the distinguished majority leader, Mr. LOTT, has talked to Mr. Panetta, and there is some indication that these documents are going to be made available to the Senate.

Mr. INHOFE. Will the Senator yield on that point?

Mr. HELMS. Certainly.

Mr. INHOFE. It is my understanding that as chairman of the appropriate committee, you made a request sometime ago for all of these documents in order for us to deliberate this, to debate this, to determine whether or not this was in the best interest of our Nation's security. Have you received any response so far to your request?

Mr. HELMS. Half hearted responses in a few cases. In large measure, the administration has stonewalled the matter and refused to release the actual documents.

The intelligence community of our Government unanimously say that this treaty has many aspects that are perilous to the security of the United States.

But in any case, I thank the Senator for his comments and for his role in trying to protect the people of this country from a treaty or a convention that is unwise, as in this case. I thank the Senator.

Mr. INHOFE. I thank the Senator, too.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I thank the Chair for recognizing me.

DEPARTMENT OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1997

The Senate continued with the consideration of the bill.

Mr. HELMS. Madam President, what is the pending business?

The PRESIDING OFFICER. H.R. 3666.

Mr. HELMS. There is no amendment to the bill pending?

The PRESIDING OFFICER. That is correct.

Mr. HELMS. Therefore, it is open to amendment?

The PRESIDING OFFICER. The Senator is correct.

AMENDMENT NO. 5191

(Purpose: To increase funding for drug elimination grants)

Mr. HELMS. Madam President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS], for himself, Mr. BOND, Mr. FAIRCLOTH, Mr. MCCAIN and Mr. COVERDELL, proposes an amendment numbered 5191.

Mr. HELMS. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

"Of the amount made available under this heading, notwithstanding any other provision of law, $20,000,000 shall be available for grants to entities managing or operating public housing developments, Federally-assisted multifamily-housing developments, or other multifamily-housing developments for low-income families supported by non-Federal governmental entities or similar housing developments supported by private sources, to reimburse local law enforcement entities for additional police presence in and around such housing developments; to provide or augment such security services by other entities or employees of the recipient agency; to assist in the investigation and/or prosecution of drug related criminal activity in and around such developments; and to provide assistance for the development of capital improvements at such developments directly relating to the security of such developments: *Provided*, That such grants shall be made on a competitive basis as specified in section 102 of the HUD Reform Act."

Mr. HELMS. Madam President, I believe the pending amendment has been approved on both sides.

Mr. BOND. Madam President, if I may interrupt, with respect to my colleague from North Carolina, I think there was one additional change that had been suggested by the minority side. I have not seen whether that was incorporated.

Mr. HELMS. I think it already has been.

Mr. BOND. On behalf of my ranking member, I want to be sure that has been incorporated. They have worked very closely with us. We appreciate their cooperation, and we particularly appreciate your work on this. I apologize for interrupting. I wanted to make sure that change had been made in the amendment submitted to the desk.

Mr. HELMS. It is certainly no problem. I suppose we are talking about on page 39, after line 10 * * * "developments supported by", inserting the words "nonprofit private sources". Is that it?

Mr. BOND. Yes.

Mr. HELMS. That is the amendment that was submitted.

The PRESIDING OFFICER. Is there any further debate on the amendment?

Mr. BOND. Madam President, I was going to make a few comments in support of the amendment, and I suggest that we await the arrival of the ranking member before actually moving to adoption of the amendment.

Mr. HELMS. Yes, and I have a few remarks.

Mr. BOND. The Senator from North Carolina has some comments, as I will, on this measure. We do want to wait for the ranking member before moving to acceptance of the amendment.

I thank the Chair, and I thank my colleague.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, the pending amendment will markedly increase efforts to eliminate the scourge of drugs and crime in public housing project by increasing funding by $20 million for local housing authorities to stimulate the fight against drugs.

These programs help curb crime within public housing neighborhoods by providing funds to housing authorities that can be used to employ more law enforcement or security personnel, to establish voluntary tenant patrols and to sponsor programs designed to reduce illegal drug use in and around public housing developments.

Most public housing residents are law-abiding citizens who deserve to live in a community free of crime, drugs, and fear. Unfortunately, this is not the reality for many public housing tenants who instead are faced with daily assaults by drug dealers and criminals who not only rob them of their freedom, but also rob them of their dignity.

Many public housing projects are incubators for crime and drug dealing. Children sell and use drugs and, even worse, children shoot other children. This violence spreads throughout our cities and jeopardizes all citizens.

The Foreign Relations Committee, of which I am chairman, held a hearing recently on international drug trafficking and its effect on local communities. Among the witnesses were two law-enforcement officers from my home State and a member of the "blood" gang, who described the effects of street-level drug dealing in detail. One thing that was clear after their testimony was that we have seen only the tip of the iceberg.

While there is no one solution to the problem of illegal drug use, it is clear that any long-term solution must empower the residents to take back their streets and enable them to live safely in their homes.

The epidemic of drug use among juveniles has been confirmed by recent statistics which show that since 1992, teenage drug use in general has increased by 105 percent, marijuana use by 141 percent, and cocaine use by 166 percent. Drug abuse and the crime it spawns are rampant in public housing projects. The war against drug use and drug-related crime in public housing communities must be fought and won in the neighborhoods themselves. Enhanced law enforcement is critical to prevailing in the war on drugs. Towards that end, the additional funds provided by this amendment will allow local housing authorities to hire more cops and security guards to protect their residents.

Recently, there have been a number of stories that have documented the crime that occurs in these neighborhoods. Here are just a few examples:

March 30, 1996—"Already this month, two young men have been shot and killed in Durham's public housing communities, one in front of a crowd of young children." (The News & Observer)

July 24, 1996—"There is evidence that increased trafficking along the U.S. 64 corridor from Raleigh is occurring, and that public housing is a target for drug dealers." (The News & Observer)

August 17, 1996—"When Durham police found 18-year-old Germaine DeMarco Ansley shot and bleeding to death in Few Gardens last month, they knew there must be a witness in the crowd gathered around his body, but no one at the public housing complex would talk." (The News & Observer)

It's time to stand up with the folks who live in these communities and help them to rid themselves of the fear and crime in their neighborhoods.

Experience has shown that the residents themselves—who are most directly affected by drugs and drug-related crime—can do a lot to turn the tide against drugs when given the opportunity.

The success of the drug elimination grants is rooted in the fact that people who live in public housing are encouraged to save their own neighborhoods. And maybe, just maybe, we can prevent a few murders, stop a few drug deals, and give children the opportunity to grow up in a safe environment.

Mr. President, this program is effective, and it is working well in my home State of North Carolina as well as across the Nation. Through the use of this grant the following areas have shown marked success: The Durham Housing Authority reported that in 1994, there were 33 drug-related evictions in Durham public housing. The Charlotte Housing Authority reported that in 1994, the crime rate fell by 8.7 percent overall, and by 12.4 percent in the target neighborhoods when the drug elimination program was implemented. There were 104 drug arrests and 26 drug-related convictions.

The Greensboro Housing Authority reported that in 1993—the first year of administering a Police Neighborhood Resource Center at the Hampton Homes Development—violent crime dropped by more than 40 percent. Similar statistics have been shown across the Nation indicating the effectiveness of combating the war on both drugs and crime.

Mr. President, with these programs in place, local housing authorities and

residents are doing their part to rid cities of drugs and their terrible consequences. I urge Senators to support this amendment, which will be offset by reductions taken from general administrative expenses, that will increase funding for this necessary and successful drug-fighting venture.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MIKULSKI. Madam President, I would like to comment on the amendment offered by the Senator from North Carolina. And as we do, I sincerely hope that the people of North Carolina are spared any damage from Hurricane Fran. We know your cousins in South Carolina are bracing for some pretty heavy weather. And as another coastal State, we know what these things mean. So I just, in a spirit of cordiality and collegiality, want the people to know in the Carolina's that we, in Maryland, are worried about them and are thinking about them.

Mr. HELMS. The Senator is most thoughtful. Of course, on behalf of the people of North Carolina, I thank her. I will say that the southeastern part of North Carolina and northeastern part of South Carolina, the people in both areas, as the saying goes, are living on a diet of finger nails right now. I thank the Senator.

Ms. MIKULSKI. We are very happy about the fact that this subcommittee that has so many wonderful agencies in it also funds emergency management. And right now, Senator BOND and I, in trying to decide how FEMA will meet its obligations, are also on those diets of finger nails, or any other one that might work, I might add.

Madam President, I think the amendment offered by the Senator from North Carolina indeed has merit. The whole idea of getting drugs out of public housing has been something that we have supported for many years. When I chaired this subcommittee I had the good fortune of working with the Vice Presidential nominee, Mr. Jack Kemp, who was the Secretary of HUD, and now Mr. Cisneros, on a focused approach to get drugs out of public housing. It was always our belief that public housing should be a steppingstone to a better life and not to be an incubator for drug dealers.

In the course of watching this effort develop, we were aware that there were certain gaps in the program. What were those gaps? That often the grand program to get drugs out of public housing was limited only to public housing, those horrendous, horrific high-rise public housing projects that often were tools of neighborhood destabilization rather than tools of empowerment.

But also we saw something else, that where the Federal Government has subsidized housing in other areas, that they too have presented problems. In my own home State of Maryland, there was a project called Riverdale in a suburban area. And it was owned by the private sector. We thought, oh, gosh, this was going to be terrific. Get rid of all the issues in public housing. But what did we see? A scurrilous landlord who did not do maintenance, who did not work with the county in being able to screen the residents, did not use the section 8 subsidies to modernize, keep the building fit for duty.

Guess what? It took on all of the trappings of the negative aspects of public housing, became poorly maintained, with neighborhood destabilization, and became an incubator of crime.

There were no funds to help the local police department or whoever to really deal with this. I think that is wrong. And what I like about the Helms amendment is that it will include those entities that are Federally assisted, multifamily housing developments or other multifamily housing developments for low-income families, supported by non-Federal entities.

That means that we will be able to make sure that whatever the Federal Government is involved with, we are going to make sure it is fit for duty, and fit for duty not only in terms of maintaining the physical structure, but, through the work of Senator BOND and myself, Senator D'AMATO and Senator SARBANES here, we now have something called "one strike, you're out,"—"one strike, you're out"—which means that if you have been arrested for a criminal act, you were not going to stay in public housing or section 8.

We are not going to subsidize criminal behavior if we are on the watch. We are going to get them out so that the poor people who want to see Federal help as a tool to be able to empower themselves to a better life—we want to help them, but we do not want to subsidize people who are part of the problem. We want to help people become part of the solution. That is why we like the conceptual framework of the Helms amendment.

I must say, I have pause about creating an earmark in CDBG. The reason I like CDBG, otherwise known as community development block grant money, is because community development block grant money was to be a block grant, maximum flexibility, minimum micromanagement by the Federal Government, so that local governments could best decide how to meet their needs. The rural needs of Maine are very different than the bustling metropolis of Baltimore City in the Baltimore-Washington corridor. Who could do what?

So at this time I do not think we should fuss about budget over that. I am going to support the Helms amendment here on the floor of the U.S. Senate. I will be happy to adopt it just on a voice vote. I understand the leadership from the other side of the aisle is considering the vote.

First of all, to Senator HELMS, I congratulate him on his thought—and his staff—behind this. I think it is about time we start really thinking about how, when the Federal Government spends its money, the taxpayers feel satisfied, and we should be creating opportunities, opportunities for the poor to help themselves. I believe now with our strong, no nonsense zero tolerance one-strike-you-are-out approach combined with the grant program and the initiative of the Helms amendment, that we can start making sure anything that the Federal Government is involved in in neighborhoods is not a tool of neighborhood stabilization, but a tool of empowerment.

I look forward to supporting this amendment by whichever vehicle is best to move it. I yield the floor.

Mr. BOND. Madam President, I thank my ranking member for her very strong and supportive words. I heartily concur with them. I extend my particular thanks to the Senator from North Carolina who gave us a reality check and really brought back to our attention the fact that crime, lawlessness, and insecurity, fear for personal safety, is a grave problem that affects everybody who lives in many of these assisted housing projects.

By targeting these funds for assistance for law enforcement agencies, I think the Helms amendment is going to go a long way toward improving safety and security for families and for the individuals in assisted housing. This is different from some of the programs that we already have. Many of the drug elimination grants are grants for a broad scale of activities. They are generally limited to Federal housing activities.

This amendment says that the CDBG funds can be used not only for federally assisted multifamily housing developments but for other multifamily housing developments for low-income families supported by non-Federal Government entities or similar housing developments supported by nonprofit private sources. So this gives us an opportunity to provide assistance not just to a federally assisted housing program but to a State, a city, or a private not-for-profit entity with a multifamily-housing development. These are the people who are most at risk. These are the people who have the most to lose if a foothold for crime, for drug activities, gets into one of these developments.

My colleague from Maryland points out a very important fact that a lot of people seem to overlook. It was Congress that said one strike and you are

out. I think that kind of get tough with the people who have shown they do not deserve to receive taxpayer-supported housing assistance is a very large step in the right direction.

I have talked to an awful lot of residents in my State who have expressed fear or concern for their public safety, and if we can tell them that if one of their neighbors is convicted of a crime of drug use that they are out, they will feel better. With the funds available under the Helms amendment to include extra policing and extra drug/law enforcement efforts, we can take another significant step toward ensuring that these developments and the people who live in them—the families, the individuals, the elderly in many instances who right now are often held hostage in their own apartments, their own homes—these people will be safer.

Incidentally, we spoke yesterday about the repeated efforts that we have made in this subcommittee, in the authorizing committees, to let the local housing authorities designate some housing as elderly only, or some as disabled only, or some as mixed, because there have been grave problems all across the country—in many of those units, certainly some in my State—where there is a mixture of disabled and elderly in the same housing. The elderly are very fearful, in some instances because of criminal behavior.

Along with the one-strike-you-are-out policy and the additional resources available under the Helms amendment, I think we are going to take some significant steps toward assuring these people of safety in their own homes. That, along with food and shelter is certainly one of the most basic and compelling needs we ought to provide to those of our citizens who need our assistance.

I commend the Senator from North Carolina for giving us a boost, getting us started on this right track. I thank my colleague from Maryland who, as always, made improvements on it. I expect shortly we will either move to formal passage or adopt this amendment. I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Needless to say, I am so grateful to both managers of this bill for their kind comments about the amendment.

Just to be sure that the amendment is modified as agreed to with the distinguished Senator from Maryland, I send a modification to the desk and ask that the amendment be modified.

The PRESIDING OFFICER. The Senator has that right. Without objection, the amendment is modified.

The amendment (No. 5191) is modified, as follows:

On page 39, after line 10, insert the following new paragraph:

"Of the amount made available under this heading, notwithstanding any other provision of law, $20,000,000 shall be available for grants to entities managing or operating public housing developments, Federally-assisted multifamily-housing developments, or other multifamily-housing developments for low-income families supported by non-Federal governmental entities or similar housing developments supported by non-profits private sources, to reimburse local law enforcement entities for additional police presence in and around such housing developments; to provide or augment such security services by other entities or employees of the recipient agency; to assist in the investigation and/or prosecution of drug related criminal activity in and around such developments; and to provide assistance for the development of capital improvements at such developments directly relating to the security of such developments: *Provided*, That such grants shall be made on a competitive basis as specified in section 102 of the HUD Reform Act."

Ms. MIKULSKI. I ask the Senator from North Carolina, is that adequate nonprofit clarification?

Mr. HELMS. Yes.

Madam President, I ask unanimous consent that Senator BOND, Senator COVERDELL, Senator FAIRCLOTH, and Senator MCCAIN be identified as cosponsors of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I yield the floor.

The PRESIDING OFFICER (Mr. KEMPTHORNE). The Senator from Georgia.

Mr. COVERDELL. Mr. President, I rise in support of the amendment. I have enjoyed listening to the remarks of the Senators from Maryland, Missouri, and North Carolina about the importance of the amendment.

I bring a little bit of a unique personal experience to this. The first public housing was erected in my home city of Atlanta, GA, in the early 1930's, and dedicated by President Roosevelt. Today, there is more public housing in my capital city than any other city in America, save one, per capita.

To reinforce the importance of this amendment, let me say there have been numerous revelations of late with regard to drug activities in these projects. It is even suspected in our housing projects that drugs are being sold with impunity and have become the hub of a distribution system.

I have said many times that one of the great changes in the current drug epidemic that we are experiencing is the age of the audience infected. It has moved from age 16, 17, and 18 to 8, 11, 12, and 13. Many of these youngsters in these housing projects are being recruited systematically into becoming instruments of drug transactions themselves. It is an absolute tragedy.

One of the other ramifications, Mr. President, is that when these gangs begin to set up these instruments of distribution in housing projects and they come upon a disagreement, it is not unusual for the resolution to be a shootout. Very recently, in one of these drug-related shoot outs, an 8-year-old girl, Kimberly Session, was shot, and two of her friends were wounded, as she was playing at McDaniel-Glenn public housing project. Absolutely innocent—just out playing in her neighborhood. They are not even safe in their home.

Four-year-old Monica Rose Mae Carr was shot as a drug-related gang pumped 40 rounds into an apartment unit, striking her in the heart as she lay asleep.

In Atlanta public housing two-thirds of those affected by the drug crisis in the housing projects are women and children, 97 percent African American. In an analysis of the effect of violent crime, half of Atlanta's low-rise public housing units, the violent crime rate is 60 percent higher than the immediate neighborhood that surrounds it—all related to drug distribution, drug transaction, and drug gangs.

So in Atlanta, we are experiencing the cost and effect of rampant drug violations in crime and use in our housing projects. So I come to the floor briefly to echo support for the amendment offered by the Senator from North Carolina. It is well targeted, well-meaning, and it will have a very positive effect on a lot of our young people, not only in Atlanta, but throughout the country.

I yield the floor.

The PRESIDING OFFICER. Is there further debate?

Ms. MIKULSKI. Mr. President, I know that the Democratic leader has no reservations about a vote occurring. The majority leader is testifying and would like a short quorum call. I suggest the absence of a quorum, and I believe we should notify Members that a vote will be forthcoming.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Ms. MOSELEY-BRAUN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AGENT ORANGE BENEFITS

Ms. MOSELEY-BRAUN. Mr. President, I salute the minority leader, TOM DASCHLE, for sponsoring the Agent Orange Benefits Act of 1996 which creates the benefits package for the children of Vietnam veterans who suffer from spina bifida, a congenital disease that requires lifelong medical care. Approximately 2,700 of our citizens would be eligible for the benefits conferred by this amendment.

Mr. President, you would think that legislation which help the sick children of our soldiers—children who have developed debilitating medical problems as a result of their parents' service in the Armed Forces who sacrificed to preserve the freedom and independent way of life that we all enjoy—that such

a thing would be free of controversy. However, some of my colleagues are holding up this amendment. And quite frankly I think those reasons can only be characterized as puzzling. While I respect those who oppose this legislation on procedural grounds, I point out that what is being proposed in this amendment is not unprecedented. It is consistent with our overarching responsibility to legislate in the public interest that this amendment is put forward today.

The opposition's argument that the scientific evidence does not clearly establish a link between dioxin and other herbicides and spina bifida is particularly troubling. While it may be true that earlier studies did not show a nexus between spina bifida and agent orange, the most recent National Academy of Sciences Institute of Medicine study, entitled, "Veterans and Agent Orange; Update 1996," suggests more than a casual nexus between the horrible condition of spina bifida and the use of agent orange. Based on that study, which was commissioned by the Veterans' Administration in 1991, Veterans' Administration Secretary Jesse Brown moved to provide presumptive compensation to the children of Vietnam veterans who are suffering from spina bifida.

Arguments that the Government does not have irrefutable proof and scientific certainty of the link between dioxin and herbicide and spina bifida beg the issue. It is a scientific fact, as the most recent NAS study confirms, that there is more than a casual connection between agent orange and spina bifida. Given this fact, I believe it is prudent—not to mention compassionate—that we err on the side of the innocent children who have been stricken with this horrible disease.

Furthermore, arguments regarding the proliferation and the cost of entitlement I think only serve to obfuscate or cloud the issue and fail to address the issue at hand, which is our responsibility to the children of those who bravely served our country during the Vietnam war.

I would like to point out—you have heard me make this argument before—that the truth is in America no one goes without help. Everyone gets helped. Every child with spina bifida who has been a victim of this situation will get health care treatment one way or the other. The only question is who will pay for it. Whether or not it is a family that is required to pay for the cost associated with the lifelong health care associated with this horrible illness, or whether or not it is the insurance companies which, of course, means that all of us who have private insurance pay more—whether or not it will be the ratepayers who pay—the insurance company bills will be made higher because, as you know, for those who are insured it does not cover the universe of people in this country who will need health care.

So here is really an efficient way of addressing these health care costs for which there has been a causal connection as demonstrated by the NAS study and, frankly, by common sense and observation.

The fact that we have so many people with spina bifida, which is showing up among the children of Vietnam veterans who were exposed to agent orange, ought to compel us to give the benefit of the doubt to those children and to the servicemen and women who served our country and deserve better than to be called upon to be put in jeopardy if they are not going to be able to pay for their children's health care because of their service.

Most important, the opposition places process over what I think is our duty, whether it is fairness, or whether it is our obligation or compassion, and does nothing to improve the well-being of innocent children who have been stricken by this disease.

I believe that we have a responsibility to care for the health of those who served in our Nation's armed services, particularly those who answered the Nation's call to duty in defense of democracy in a military conflict.

When our men and women joined the military we promised to give them the best training, the finest equipment, and to care for them and their families should they become casualties of war. Passage of this amendment is simply an acknowledgment of that commitment. While these brave men and women sacrificed for our community as a whole, it seems to me that it is our duty to keep our promise to them and to provide some means for the kind of support and medical expenses associated with this devastating disease.

We have a contract with our veterans—a contract that is both irrevocable and inviolate. If we break this contract we send a disturbing message to our men and women in uniform that America is giving lip service to their sacrifice and to their service and that we cannot be counted on to honor the commitment should there be a situation occur such as the birth of a child with a debilitating disease; that is, to care for them or their dependents should they become disabled as a result of their service to our Nation, and it ought to be something for which there is unanimous support by our citizens and society. I can think of nothing that would more adversely affect and impact the morale of those now serving in our Armed Forces than to turn our back on them for the condition of their sick children.

Mr. President, our responsibility and obligation to our veterans was best articulated by the most favorite of the favorite sons and daughters of my State of Illinois, Abraham Lincoln, who in his second inaugural address said: "To care for him who shall have borne the battle, and for his widow and his orphan * * *" Today, of course, we would acknowledge the contribution and participation of the men and women in our military in the defense of our country. That change notwithstanding, President Lincoln's words are as valid today as when they were first 131 years ago. In the spirit of our obligation "To care for him who shall have borne the battle, and for his widow and his orphan," or his children I think is embodied in Senator DASCHLE's amendment. I hope that we will recognize those arguments, notwithstanding the overarching responsibility that we have in this situation to support this legislation. It is sensible for us to do so. It is the important thing for us to do, and certainly it is in keeping with our inviolate commitment to the veterans.

So I rise in strong support of the amendment, and I hope that our colleagues will support it as well.

Thank you, Mr. President.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the role.

Mr. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 5191

Mr. BOND. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is Amendment 5191 offered by the Senator from North Dakota.

Mr. BOND. Mr. President, I think we are ready to go to a rollcall vote.

But before I ask for the yeas and nays, I will advise my colleagues that while we have been at work here our colleague, Senator ABRAHAM and his wife, Jane, are the proud parents of a healthy baby boy. We offer them our congratulations and our very best wishes.

On the Helms amendment, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. If there is no further debate, the question now is on agreeing to amendment No. 5191, as modified. The yeas and nays have been ordered. The clerk will call the roll.

Mr. NICKLES. I announce that the Senator from Oregon [Mr. HATFIELD] and the Senator from Alaska [Mr. MURKOWSKI] are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon [Mr. HATFIELD] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 271 Leg.]

YEAS—98

Abraham	Feinstein	Lugar
Akaka	Ford	Mack
Ashcroft	Frahm	McCain
Baucus	Frist	McConnell
Bennett	Glenn	Mikulski
Biden	Gorton	Moseley-Braun
Bingaman	Graham	Moynihan
Bond	Gramm	Murray
Boxer	Grams	Nickles
Bradley	Grassley	Nunn
Breaux	Gregg	Pell
Brown	Harkin	Pressler
Bryan	Hatch	Pryor
Bumpers	Heflin	Reid
Burns	Helms	Robb
Byrd	Hollings	Rockefeller
Campbell	Hutchison	Roth
Chafee	Inhofe	Santorum
Coats	Inouye	Sarbanes
Cochran	Jeffords	Shelby
Cohen	Johnston	Simon
Conrad	Kassebaum	Simpson
Coverdell	Kempthorne	Smith
Craig	Kennedy	Snowe
D'Amato	Kerrey	Specter
Daschle	Kerry	Stevens
DeWine	Kohl	Thomas
Dodd	Kyl	Thompson
Domenici	Lautenberg	Thurmond
Dorgan	Leahy	Warner
Exon	Levin	Wellstone
Faircloth	Lieberman	Wyden
Feingold	Lott	

NOT VOTING—2

Hatfield Murkowski

The amendment (No. 5191), as modified, was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BOND. I move tolay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

AMENDMENT NO. 5192

(Purpose: To require that health plans provide coverage for a minimum hospital stay for a mother and child following the birth of the child, and for other purposes)

Mr. BRADLEY. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Jersey [Mr. BRADLEY], for himself, Mrs. KASSEBAUM, Mr. FRIST, and others, proposes an amendment numbered 5192.

Mr. BRADLEY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. BRADLEY. Mr. President, this is an amendment that deals with the Newborns Act. It is an attempt to require at least 48 hours for a childbirth.

Mr. FRIST addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

AMENDMENT NO. 5193 TO AMENDMENT NO. 5192

(Purpose: To require that health plans provide coverage for a minimum hospital stay for a mother and child following the birth of the child, and for other purposes)

Mr. FRIST. Mr. President, a number of my colleagues have expressed concern regarding a provision in the amendment just sent to the desk which appears to have a conflict in it. I wish to offer a second-degree amendment at this time to clarify the intent of the legislation. Specifically, language was added to the section on postdelivery care to clarify that it is the attending provider, in consultation with the mother, that determines the appropriate location for followup services in combination with an earlier discharge which is less than 48 hours. It is confusing as initially written because the amendment appears to give the mother the option of demanding home care regardless of the attending provider's assessment of their individual needs.

This decision is most appropriately made in cooperation with the provider and the mother. Therefore my second-degree amendment strikes the language which appears to conflict with this intent.

The PRESIDING OFFICER. Does the Senator intend to offer this amendment at this point?

Mr. FRIST. Yes, I do.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Tennessee [Mr. FRIST], for himself and Mr. BRADLEY, proposes an amendment numbered 5193 to amendment No. 5192.

Mr. FRIST. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. FRIST. Let me just briefly close by saying one other thing that this second-degree amendment does. The amendment guards against monetary incentives directed at discharging mothers and babies before the attending provider feels it is appropriate. Specifically, my second-degree amendment provides language sought by health plans to provide that nothing in this bill interferes with rate negotiators between a plan and a provider.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Mr. President, I welcome the second-degree amendment by the distinguished Senator from Tennessee. I do think he clarifies my own intent in the original amendment. I believe that it is important. It adds to the purpose of the original amendment.

Mr. President, the amendment I have offered and that has been second-degreed by the distinguished Senator from Tennessee I think is a very important amendment. His is offered on behalf of himself and me. I offered mine on behalf of myself and him, as well as the distinguished chairman of the committee, Senator KASSEBAUM, the ranking member Senator KENNEDY, Senator DEWINE, Senator MURRAY.

Mr. President, I ask unanimous consent that all 52 cosponsors of this amendment be listed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COSPONSORS

The following Senators have cosponsored the Newborns' and Mothers' Health Protection Act as of September 5, 1996.

Bill Bradley.
Nancy Kassebaum.
Bill Frist.
Jay Rockefeller.
Barbara Boxer.
Barbara Mikulski.
Paul Sarbanes.
Patty Murray.
Mike DeWine.
Harry Reid.
Claiborne Pell.
Edward Kennedy.
Paul Simon.
Paul Wellstone.
Carol Moseley-Braun.
Richard Bryan.
Wendell Ford.
Frank Lautenberg.
Daniel Inouye.
Ben Nighthorse Campbell.
Robert Kerrey.
Mitch McConnell.
Carl Levin.
Jesse Helms.
Charles Grassley.
Pete Domenici.
John Kerry.
Olympia Snowe.
Alan Simpson.
Patrick Leahy.
John Glenn.
Charles Robb.
Ted Stevens.
Diane Feinstein.
Joe Biden.
Rod Grams.
Alfonse D'Amato.
Ernest Hollings.
Kay Bailey-Hutchison.
Herb Kohl.
Bob Graham.
John Warner.
Pat Moynihan.
Chris Dodd.
John Breaux.
Larry Pressler.
Arlen Specter.
Bill Cohen.
James Inhofe.
Max Baucus.
Byron Dorgan.
Ron Wyden.

Mr. BRADLEY. Of these cosponsors, 19 are Republican. So this is a bipartisan amendment and a bipartisan bill. What the bill does is very simple. It says that insurers are required to allow 48 hours, up to 48 hours, for a woman in the hospital after giving birth and requires insurers to allow up to 96 hours if that birth is a Caesarean section.

If the mother and her doctor choose to leave the hospital in less than 24 hours, less than 48 hours, she is permitted to do so. There is nothing in this bill that says that she cannot leave earlier. Followup care will be provided if she leaves earlier.

Mr. President, why is this amendment needed? Why are we offering this amendment? The answer is because all of us, I am sure, have received reports of women in our respective States being required to leave a hospital prior to 48 hours, in some cases prior to 24 hours. In California, for example, in 1994, for 1 in 6 babies that were born, the mother had to leave the hospital in less than 24 hours. That is for 90,000 births.

The problem here is that some illnesses do not develop until the second day. If the mother were in the hospital, they would be able to detect it and deal with it. A good example is jaundice, which does not really develop until the second day. Heart defects are another. What happens is that the mother is pushed out of the hospital. She goes home after 12, 14 hours, 16 hours, 26 hours. In the second day jaundice is detected, or worse, a heart defect, and the mother is rushed back to the hospital at a much greater cost.

In New Hampshire, for example, there was the study that showed that women who leave the hospital in less than 48 hours have a 50-percent increased risk of readmission to the hospital, a 70-percent increase in risk to be readmitted at the emergency room. So in the long run, by saying that someone has to leave in 24 hours, you are really saying it is going to cost more, it is going to cost more because the readmission and the treating of the more serious illness could have been avoided had she been in the hospital when it was first detected.

So, Mr. President, the need here is very clear. It is kind of common sense. I mean, my distinguished cosponsor on this bill, Senator FRIST, refers to a safe haven of time, 48 hours. That is why it is needed. Who supports this amendment and this bill? It is supported by the American Medical Association. The American Academy of Pediatrics supports this. The College of Obstetricians and Gynecologists supports this.

In fact, the Academy of Pediatrics, their recommended guideline is 48 hours. Gynecologists and obstetricians, 48 hours is the guideline they set. That is how we arrived at this number. Why 48 hours? Because the doctors in question recommended that. The obstetricians and gynecologists stated that, if we keep the 24-hour limit, "it could be the equivalent of a large uncontrolled, uninformed experiment on women and babies."

We all want to reduce health care costs. We can do so without jeopardizing the health of mothers and their newborns. Again, who makes the decision? That is really the question here. We believe that the person who makes the decision should be the doctor and the mother, that the decision should not be made by an accountant in a distant office seeking cost savings and forcing women out of hospitals within 12 to 14 hours after they have given birth to their child.

This is the basic question: Who makes the decision? We have stories all across the land of doctors who have been put under great financial pressure to discharge in 24 hours or less or they will be dropped from health plans.

So, Mr. President, this is needed because there is a clear health problem with women who are discharged too early. The 48-hour and 96-hour for Caesarean section limits were set pursuant to the guidelines of the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists.

A number of States have already acted on this. Twenty-eight States have passed laws requiring a 48-hour limit. Why, then, do we need a national law, people ask. You need a national law obviously for the other States that have not passed it, but even if all of them passed it, you would still have many in a State that would be unaffected by the State law.

For example, we need a Federal law to get at the so-called ERISA plans, the self-insured plans, the plans of large companies like Boeing, IBM, 3M, Dupont, and others. They would not be affected by a State law because they are self-insuring ERISA, controlled by Federal law.

There is also another problem, at least in my State of New Jersey. There is a State law that says you have 48 hours, but the law says the State has no authority to regulate insurance companies that are headquartered in a different State, Mr. President. So there are large numbers of people who are not covered then, of course, in States like Kansas, Missouri, New Jersey, Pennsylvania, New York. You might have a 48-hour law in a particular State, but you might have a hospital in another State, and when you gave birth to the child in a hospital in another State, you would not be covered by the 48 hours and you would be pushed out of the hospital in 24 hours.

That, not coincidentally, would have been the case in my own family when our daughter was born. The birth was delivered across the line in New York—24 hours, you are out.

We need this national law in order to make sure women have 48 hours to stay in a hospital. There are some places, for example, in Kansas, 40 percent of the companies—only 40 percent—would be subject to regulation under just a State law. In some States, 75 percent of the women are uncovered because State laws do not and cannot reach them as they are now written.

Now, Mr. President, this is an issue that came to my attention because I had several letters from women who had been subjected to this rigid 24-hour-and-you're-out policy. Drive-through deliveries is what they are called. There was an article about it, after this came to my attention, in Good Housekeeping magazine, and someone, the author of the article, put a little box in the article that said if you care about this issue, write to Senator BRADLEY.

Mr. President, I have received, since that article appeared about a year and a half ago, more mail than I have received on any one issue, with the exception of interest and dividend withholding, in my entire 18 years. I received over 85,000 pieces of mail from women and families of women in this country who have been pushed out of the hospital in less than 24 hours. Now, I do not intend to read a long list of these letters—85,000 is a long time. We want to move this amendment as quickly as possible. Let me share two with you.

The McCloskeys, who live outside Philadelphia, write:

> Our daughter Shannon was discharged from the hospital approximately 27 hours after birth. After only 8 hours at home, she went into seizures and we had to rush her back to the emergency room. She was diagnosed with streptococcus. The timing of our arrival at the hospital was critical, and we feared for her life. The doctor told us that if we had arrived at the hospital 15 minutes later, she would have been dead.

Linda Dunn of Knoxville, TN, writes:

> We almost lost my grandson, Brantley, because of an early hospital release. Brantley was one month premature and was born via a Caesarean section. In spite of this, he was released with his mother only 36 hours after the birth. Within 20 minutes of arriving home, Brantley choked, quit breathing, and was rushed to Children's Hospital in Knoxville, where he was placed in neonatal intensive care and noted as having "a serious, life-threatening episode." The frightening part of the scenario was that if I had not been trained in infant resuscitation at my prior job, the baby would simply be dead.

Mr. President, if the baby were in the hospital, the baby would not have been even risking death. In the first 48 hours when some baby started to turn sort of a greenish color and jaundiced, it would be recognized and dealt with immediately. You are a first-time mother and you have a child, you are forced out of the hospital, you do not know quite what to do and you arrive home with the baby. In the first 24 hours you have a life-threatening health problem; you do not have anybody to turn to. Mr. President, that is why we need this bill.

I might also say that there were people who say you will not get any support from the insurance industry or HMO's, that they are the bad guys here. Mr. President, that is not necessarily so. We have letters of endorsement for this bill from one of the largest HMO's in the country, Kaiser

Permanente. We have an endorsement from the HIP plan of New York-New Jersey.

Mr. President, this bill has 52 cosponsors, 33 who are Democrat, 19 who are Republican. This passed out of the Labor and Human Resources Committee 14 to 2. In the House, the leader on this legislation is a Republican, GERALD SOLOMON, with GEORGE MILLER as his No. 1 helper in this effort. They have over 150 cosponsors.

It is time to do this amendment. It is time to do it now. I hope we will pass it on this bill and that we will send it to conference and hopefully the conference will hold this amendment, say to those hundreds of thousands of women out there who are going to give birth in the next 6 months that you are not going to be rushed out of the hospital. You will have a little time to take care of the health problem of your child if it should develop. You will have a little time to gather yourself after an exhausting delivery. You will have a little time to get you and your baby off to a right start, a healthy start, because the U.S. Senate saw fit on this bill at this time to say that 48 hours is not too much to require an insurance company to give you after giving birth.

The PRESIDING OFFICER (Mr. THOMPSON). The Senator from Delaware.

Mr. BIDEN. I want to thank Senator BRADLEY. This issue was called to my attention by someone reading Good Housekeeping who asked me why everybody was writing to BRADLEY. I contacted Senator BRADLEY and wanted to know more about what he was talking about because I was hearing about this and found it hard to believe. You hear so many rumors today, so many people are upset about HMO's—much of it legitimate, some of it not legitimate—that you hear these horror stories.

Quite frankly, when I first heard this back in my home State, I really did not believe that some HMO's and insurance companies were actually doing this. I did not think it was a joke, but I thought it was a clear misunderstanding on the part of the people who were saying this was happening—24 hours and you are out.

This is, quite frankly, very scary. The potential danger is real. Think back, those of you women and men on this floor when you were young parents, to the first child you had and think back to when you brought that child home. I know this is a distant memory for some of us, myself included, but remember how it was. You brought that baby home, and when your wife turned and handed the baby to you, your first concern was maybe, "Is it going to break?" Or, "I don't know what I am going to do here, I'm not sure." Then your wife, no matter how instinctively good a mother she is, used to go, in the first couple days the baby was home, and literally lean over the crib to make sure the baby was breathing. How many of you actually leaned over the crib and stuck your ear down to see if you could literally hear the baby breathing? The reason I point that out is the baby was healthy. Your children were, 99 percent of the time, healthy and nothing was wrong. But the point is, you didn't know. There are so many young mothers. The tragedy is that there are teenagers giving birth to children. The tragedy is that there are thousands of unwed mothers out there. What do they do when they go home—you may say that maybe they shouldn't be in that position, but they are—without anybody even having an opportunity to instruct them on how to deal with the baby, what to look for? These are very basic little things, just basic things.

So I contacted the Delaware Medical Association and other doctors in Delaware. I wanted to know what their view on this was before I cosponsored Senator BRADLEY's bill. I was pleasantly surprised when the leading pediatricians and ob/gyn's showed up at a meeting I held and they unanimously supported the Bradley proposal. It was unanimous. Usually, you get some kind of heat when the Government is going to indicate that something must be done or when the Government is going to dictate something. In this case, it would dictate that an insurance company can't throw you out in 48 hours or 24 hours if the doctor says no. But here you had all these doctors, who are no fans of Government intervention, every one of them saying this is important. I will not take the time now to recount what they said because we want to move along. But, they gave me specific story after story, incident after incident, in just that one long breakfast meeting, of specific cases they had personally handled. This was 21 or 22 pediatricians and obstetricians. It amazed me. The intensity of their political views and the variation of their views was wide.

So the only real mystery to me is, why in the devil is it taking us so long to pass this? That is the real mystery. The mystery to me is no longer if it is needed; the mystery is no longer that enough Members of Congress want it; the mystery to me is, who is stopping it? Why? Who is stopping this? Why isn't it done already?

Now, you know the fact of the matter is that this is not the usual vehicle to pass this. I understand my friend from New Jersey concluded that he is getting all kinds of promises that we can bring this up and will have a chance to vote on it. I have not had a chance to speak to him about this point, but I assume the reason he is attaching it here is that his patience is running a little thin. He wants to make sure that before we go out of session we get a chance to act on something that clearly a majority of people want. So the biggest mystery to me is not why it is needed, not why it is important, not why do doctors support it, not why do mothers support it, but why hasn't it been done?

Now, I know that speed was not what my colleague was known for on the court—I am only joking, Senator. I want to make it clear that he could go to his left and right and he could do everything on the court. He is a Hall of Famer. But the fact of the matter is, the reason it is not being done is not for the lack of my friend's pushing it. Although I imagine we are going to hear that this is not the vehicle—the HUD appropriations bill—to put this on, we are running out of runway and running out of time. A lot of women and a lot of children are at risk. Some would say, oh, what difference does it make to wait another month? In another month we are out of here, which means waiting until next year, and waiting until next year means the end of the next year. So the health and safety of hundreds of thousands of women and children are at risk here. It is a really basic proposition.

Let me conclude by reiterating one point. A lot of my colleagues and individuals have asked me about this. And because they have not focused on it, I suspect, they did not understand one of the first points the Senator made when he took the floor, and that is, why don't they do it at the State level? Why not get this done at the State level? The Senator explained ERISA. The bottom line of this is that, in Delaware, only about 15 percent of the people with health insurance would be affected by a State law that my State is passing. My State is passing a law saying leave it to the doctor to decide. Notwithstanding that, those State legislators have come to me and said, we need a national law, because even with the State acting, and acting promptly, only 15 percent—15 percent—of the people with health insurance would be positively affected by the State law. To put it another way, the other 85 percent are out. They are out, without Federal legislation.

I see Congressman SOLOMON on the floor. I thank him for his leadership. I thank Senator BRADLEY on this side for calling my attention to this and making me realize that this was not some exaggerated criticism of HMO's—which I honestly thought was the case when I first heard it in my State, that this was one of these horror stories that had been blown out of proportion. It is real, it is genuine, and the bottom line is that this will make a difference in the lives of mothers and their children. We should not wait any longer.

I thank the Chair.

Mr. FRIST addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. FRIST. Mr. President, the bill before us, the Newborns' and Mothers'

Health Protection Act of 1996, does one very simple thing. I refer to it as a "safe haven." It guarantees a safe haven for care of mothers and their newborn infants during the immediate postdelivery period. That period of time is 48 hours after delivery, that postdelivery period. I have been very aware of the potential for having Government get too involved, but it does this without excessive interference by the Government in the health care system.

As background, maternity care today—many people don't know this—is the most frequent reason for hospitalization today. Hospital stays of 24 hours or less have indeed become the norm in many parts of the country for those routine, uncomplicated vaginal deliveries. Sometimes hospitalizations are as short as 12 hours and even 6 hours. However, adopting this approach of a 6-hour discharge, or even a 12-hour discharge, to the general population, and not being able to predict every time which child will have a ventricular arterial contraction or a defect, it has not proven to be uniformly successful.

This bill ensures appropriate coverage. Let me make it clear. It does not mean 48 hours for everybody in the hospital. People can still be discharged at 12 hours or 24 hours. What this bill says is that the insurance company does not decide when you are discharged, but it is you, the mother, in consultation with the physician. The physician and mother decide, the two of them, not an insurance company.

Why has all of this become an issue today in 1996 when it was not an issue 8 or 10 years ago? Over the last several years, we have seen how these progressively shortened hospital stays have, in some cases, hurt new mothers and their infants. These cases that will be referred to have been brought to the attention of physicians, have been brought to the attention of the American people, and have been brought to the attention of the U.S. Congress. Problems for both the mothers as well as the infants—either one of them—can simply occur with too early a discharge.

Today with the evolution of care in our rapidly changing health care system there are certain dynamics which can and do raise their heads that encourage too early discharge overruling the mother and overruling what the physician regards as being in the best interests of that child or that mother. The decision for discharge should remain with the health care provider in consultation with the mother.

Changes in maternity stay have occurred over the last 2 decades. We only need to look back at older brothers and sisters and see how long they were in the hospital, or how long we were kept in the hospital and compare it to today. Mothers used to stay in the hospital routinely for 5 days or more. At the same time—remember this is not that long ago—infants were frequently isolated from mothers and brought to them only at nursing time. And mothers were heavily sedated during birth. And fathers very, very rarely were present at the delivery of their infants and children.

Over time—again it has been over the last 30 years—this type of delivery environment was recognized as being abnormal and unacceptable to many people—to parents who asked for more, and who won more appropriate care for this most natural of all events; that is birth. But increasing emphasis was placed on returning home as soon as possible. Many people wanted to get back home.

This legislation does not discourage innovation, creativity, new environments in which this delivery can be carried out; this birthing can be carried out. Alternatives to hospital delivery have become available. We now have birthing centers under the supervision of other types of health care providers, not just physicians, but midwives. All of this experience which has occurred in the last 20 years has taught us much about what is necessary, what is not necessary, what is safe, and what is not safe for the delivery during a normal pregnancy. Midwives carefully screen their mothers for such deliveries, prepare the parents for this experience, and visit their patients shortly after discharge.

And in this framework of carefully-crafted policy mothers and their newborns are frequently ready—yes, ready—to return home as early as 6 hours after delivery. But then on the flip side insurers—again not all insurers—but insurers seeing these results have been attracted by the successful outcomes and by the opportunity to decrease costs and free up funds which can be utilized elsewhere in the system—all of that can be a laudable goal. But an overvigorous institution of a policy of early discharge without enough attention paid to potential consequences when this approach is inappropriately applied has resulted in the situation in which we find ourselves today.

Health care providers—that is physicians and midwives—frequently feel undue pressure to discharge a mother and her infant before they believe it is in the best interest of their patients. We just simply cannot let that happen. I concluded that in this limited situation in which there has been excess interference in the exercise of a physician's best interest of the patient, a physician's responsibility for his or her patient, Federal legislation is justified.

Very quickly, what does this bill do? Number one, as I said, it provides a safe haven of time during which those making the decision about discharge are those most directly involved—the mother—and the health care provider. Many times I will hear from my medical colleagues who will tell me that sometime in that 48- or 96-hour period a health care provider will receive a phone call, and say, "We need to encourage your patient to leave earlier." Then you may think it is in the best interest of that patient. That is simply unsatisfactory today.

No. 2, this bill guarantees that in those cases where the provider in consultation with the mother decides that a mother and her newborn can safely leave the hospital before 48 hours, that the insurer, if they say they are in the business of covering maternity benefits during that 48-hour period, will provide coverage for these timely postdelivery care situations.

That is very important because some people come, and say, "You are forcing people to stay in the hospital for 48 hours." We are not. The provider and the mother decide about discharge. If it is before 48 hours, timely care must be given by that insurance company.

No. 3, this bill guarantees that there will no longer be undue pressure in the form of a monetary incentive to either the mother or the health care provider to discharge in less than 48 hours.

This bill does not do several things. Again, to understand the bill fully, we need to look at those things.

First, this bill does not require a mother and her newborn to stay any fixed time in the hospital.

Second, this bill does not require that a mother go to a hospital to deliver her infant. It allows other types of environments. It allows innovation within our changing health care system.

Third, it does not preempt laws or regulations passed by any State that provide already as much or more protection for the mother and her infant than is provided in this bill.

Many mothers are ready for early discharge, and many health care systems have the appropriate safeguards in place for this to occur, but not all, and that is why we need this legislation. With time more will provide appropriate prenatal preparation and follow up. However, now and in the future, it should always be the health care provider in consultation with the mother who will decide when the mother is ready to go home with her newborn child and to what environment.

The amendment before the Senate guarantees this period of time which I call a safe haven for this decision-making process to be carried out. It is the best and the only way to support the successful transition for mother with child to mother caring for child.

What will be appropriate for health care in the 21st century? There is no way for us to predict now and, thus, in this bill we have the flexibility to allow innovative solutions to the problems that may face us in the future. It is not a rigid bill.

Professional organizations such as the American College of Obstetrics and Gynecology and the American Academy of Pediatrics have endorsed the bill. Some managed care plans have endorsed the bill as well. The National Association for Home Care has endorsed the bill. The American Medical Association supports the bill and their comment is basically that this bill does not dictate medical practice nor lock medical care into statute. It restores the clinical autonomy of doctors and their patients to make the best decision about health care for women and their newborns. It provides flexibility for early discharge when both the mother and physician agree on an abbreviated stay.

It is also endorsed by the American Nurses Association, the Association of Women's Health, Obstetrics and Gynecologic Nurses, the March of Dimes Birth Defect Foundation, the Consortium for Citizens with Disabilities, the American Association for University Affiliated Programs, and a number of other organizations.

Mr. President, I opened by saying that I am not a fan of big Government intruding into our health care. But in very specific situations—situations where the care of patients is being restricted in many ways I think to the detriment of society—there is a point for Government to stand up. At the same time we must guard against a one-size-fits-all health care system, or to use the Federal Government to micromanage those difficult cost-benefit tradeoffs that every health care plan must make.

However, I do believe that there are times when it is appropriate for Government to provide guidance by setting national rules. This is one of those times. The challenge is to do so in a way that protects the individual but still allows the necessary flexibility for the system to respond appropriately and in a timely manner to a rapidly changing health care environment.

This bill does exactly that. Therefore, I urge all of my Senate colleagues to join me in supporting this important and timely piece of legislation.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I only want to ask a question. I am not going to speak.

Parliamentary inquiry, Mr. President. After this amendment is disposed of, is there some pending business by order or what will be the pending business?

The PRESIDING OFFICER. After the Bradley and Frist amendment is disposed of, the bill will be open for further amendment.

Mr. DOMENICI. Is there a time agreement on the amendment that is pending?

The PRESIDING OFFICER. There is not.

Mr. DOMENICI. And do I understand then a Senator taking the floor and getting recognized with an amendment would be the pending business after the disposition of this amendment? Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. I would like to state to the Senate that when this matter is disposed of, I do intend with the aid and assistance of my able friend, Senator WELLSTONE, to call up the compromise Domenici-Wellstone mental health coverage issue as an amendment if possible yet today before we finish.

I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. I ask unanimous consent that after this amendment is disposed of, the Domenici-Wellstone amendment be next in line.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. I reserve the right to object.

The PRESIDING OFFICER. Objection is heard.

Mr. WELLSTONE. Does the Senator know I asked unanimous consent that our amendment be brought up?

Mr. DOMENICI. Yes. I had to reserve the right to object in behalf of the leadership because the manager deserves an opportunity to pass judgment on whether that should be granted.

Mr. WELLSTONE. I see.

Mr. President, I will just take a moment. I certainly thank Senator BRADLEY and Senator FRIST and other Senators for their leadership, and I am very proud to be a cosponsor of this amendment. I just want to make four points. The first one is the point the Senator from Delaware, [Mr. BIDEN] made.

I come from a State where very simple legislation has now been passed with overwhelming support. The problem is, as with so many of the self-insured plans, that people because of ERISA are just not covered at all. In Minnesota I think it is about only 40 percent of the people, actually a quite smaller percentage in Delaware. So we really have to do this at the Federal level to provide this protection for women, their husbands and their children.

My second point, an alarming one, is that too many health plans are refusing to provide the postpartum coverage both women and their physicians feel is necessary. Senator DOMENICI and I are going to talk about mental health. That is another example where too often in the plans you find discrimination or you sort of find a point where some of the limits set are arbitrary. That is exactly what is going on here. This is really an effort to deal with what some people call the drive-through deliveries.

I think this amendment is long overdue. It is not that often we can pass an amendment or a piece of legislation which so clearly connects to people's lives—women's lives, children's lives, husbands' lives, families' lives.

This is an extremely important amendment.

Again, point one is that we do need to do this at the Federal level to provide this coverage to people in the United States.

My second point is that we do have these drive-through deliveries.

Three, as referred to by my colleague from Tennessee, nobody is mandating that a mother stay in the hospital 48 hours. My daughter, Marcia, had a boy several months ago and in a day was more than ready to go home. But what I am worried about is the bottom line becomes the only line, and what you have is people discharged out of the hospital when they should not be and when they are in need of more assistance or when their babies are in need of more assistance. So I think it is extremely important on those grounds.

And the final point, which is different, is that I think this amendment and the fine work that was done in the House of Representatives speaks to a broader question. We are not going to get to it today, but I really do think that what is going on in the country is a major concentration of power in health care. The fact that there have not been a lot of changes taking place in the 104th Congress does not mean that there are not major changes taking place all around the country.

These are rough figures; I am just speaking from memory here, but something like the nine largest insurance plans control over 60 percent of the managed care plans in our country today. I am not trying to make any conspiracy argument, but what I am trying to say is when you move toward this kind of concentration of power and you find situations when women and their babies are leaving the hospitals, really forced to leave the hospitals because they do not have the necessary coverage where they should be there that extra day, that points to a larger set of problems, and I think we need to legislatively figure out how to build more accountability into the system, how to make sure some of the care givers are involved in setting some of these standards, how to make sure that there is more consumer protection, how to make sure that while we move forward with cost cutting or cost containment, all of which we need to do, the bottom line is not the only line because when it comes to the health of a mother and her newborn or when it comes to the concerns of families, there is nothing more precious than good health.

That is what this amendment speaks to in a very dramatic and very direct way, and I am very pleased to be an original cosponsor.

I yield the floor.

Mr. DEWINE addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Mr. President, I rise in strong support of this amendment. I believe it is a major step toward insuring health for newborn babies and for their mothers. For the last few decades, we have made great progress in medical care, pregnancy and childbirth. I have had the occasion, as my wife has, to see this firsthand. My wife, Fran, had our eight children over a pretty widely spaced period of time. We have had children in the 1960's and 1970's, the 1980's, and the 1990's. So we have seen a lot of changes.

The progress during this period of time has certainly been measurable. In 1968, for example, when our first child, Patrick, was born, there was relatively little in the way of prenatal education for the mother. Since then, with each new child, we have seen some truly remarkable improvements: Prenatal child birthing courses now for both parents, ultrasound, fetal monitoring during labor to detect problems, birthing rooms which have done a lot to make the whole process much easier and certainly much more humane. Fran and I have watched all of these innovations as they were introduced, refined and perfected, and we can both testify that as a result of these improvements today's mothers are better prepared to deal with their pregnancies in a healthy way and better prepared to give birth.

All that being said, we still have a long way to go if we want to make sure new mothers and their babies get the care they need. This amendment addresses one of the key areas in which we need to make substantial improvements. We can no longer ignore the fact that today's new mothers and their babies are often being moved out of hospitals far faster than a real concern for their health would allow. This is being done without any real consideration for what else needs to be done to compensate for that quick movement out of the hospital, what kind of additional care the mother and child need if the hospital stays are shorter and shorter, and shorter. Often, as we have already heard in the Chamber today, the mother and the baby are moved out of hospitals just 24 hours after the child is born, in some cases even less than that.

If you talk to doctors, as I have, they will tell you that they are under a tremendous amount of pressure to keep the new mothers moving out the hospital door. The pressure is coming on the doctors, coming on the mothers. It is coming on the hospitals. I think it is wrong. I think it is unconscionable. This is a decision, as Dr. FRIST said just a moment ago, that should be made between the mother and the doctor. That is who should be involved in this decision. It is a decision that should be based on the best interests of the mother and the child. It should not, frankly, be a business decision.

When our son Patrick was born in 1968, my wife, Fran, stayed in the hospital with him for almost 5 days. That was standard operating procedure in Hamilton, OH, in 1968. When our last child, Anna, was born in 1992, Fran stayed in the hospital for 36 hours, about a day and a half.

This trend is not bad in and of itself. In some cases, a mother might want to leave the hospital sooner rather than later. For example, back in January 1987, my wife Fran had just given birth to our son Mark, when a blizzard threatened to hit. In fact, she gave birth between two blizzards—one had come, then we went to the hospital, then we were worrying about the second one coming. So for her the choice was clear: either leave the hospital after a day and a half, or risk being stuck there for up to a week. Fran chose to take Mark home. That is what she did. The blizzard came just a few hours after we got home.

But it is not, therefore, a question of mandating hospital stays. Government should not be in the business of doing this. All we are trying to do with this amendment is to make sure it is the mothers and their doctors who are making this important choice, a choice that affects the health of the mother and the child.

It is also important that we not look at the number of hours mothers spend in the hospital as if it were an isolated issue or an isolated problem. I think we need to pay greater attention to the overall issue of postnatal care. The way my wife Fran likes to put it, it is time to make the same kind of investment in improving postnatal care as we have invested in prenatal care in recent years.

Let me tell another story which I think illustrates this. Last year, our daughter Jill gave birth to our second grandchild. At 10:55 p.m. on a Wednesday, the birth took place. At 2 a.m., Thursday morning, just about 3 hours later, Jill was being taught how to bathe the baby and other necessary information. At 7:30 that morning, they started marching Jill through three or four separate videos on child care. And by noon on Friday, she and the baby were out the hospital door. Jill, at least, was exhausted.

We all realize the doctors and nurses who take care of our young mothers and their babies are the best in the world. They are true professionals with the best combination of competence and compassion. But they have an incredibly long checklist—that is literally what it is today—a long checklist of things that they have to teach the new mother. Frankly, they do not have enough time to teach it in. Sometimes we forget the new mother needs some time to rest, too, especially after an exhausting labor, during which she may well have missed a night's sleep. Longer hospital stays very well may be an answer to these problems.

But, in addition to that, we have to look at the overall issue, the overall issue of postnatal care. Frankly, there ought to be more followup care for the mothers and their babies. As we heard in testimony in our committee, and as my daughter-in-law Karen just experienced when she had her baby, the enlightened insurance companies, the enlightened HMO's, are now building into the policy, building into the plan, this type of postnatal care, because the fact is that most doctors do not require a followup visit for a week or two. Frankly, as parents, sometimes it is hard to take a new baby out before then. We, therefore, need to consider the importance of followup in-home visits. This kind of followup care can make a huge difference, a huge difference in the welfare of the child.

We had an experience, I think, that would shed a little light on this as well. Our youngest child, Anna, was born 5 weeks early, but she appeared to be healthy and had no medical problems. My wife, Fran, and our daughter Anna, were sent home after 36 hours. But after a few days, Anna began to look slightly yellowish. Fran and I really were not worried. We knew it was common for breast-fed babies to become slightly jaundiced. Fran was watching her, and about the fifth day she took her to the doctor. It turned out Anna's bilirubin level was dangerously high. Even as experienced and educated parents—seven other children—we had not noticed the change and had not noticed how fast the change was occurring. If Fran had not taken her in when she did, there could have been medical complications. This whole incident was particularly scary for us. We felt we knew the danger signals, but we obviously missed them.

This is a case of a mother and father who had seven children, who had been through this before. If it was tough for us, can you imagine how difficult it must be for a young mother, with no experience at all, to detect some of these medical problems? Therefore, we need to do more in this area. In fact, when we were considering this legislation in the Labor and Human Resources Committee, some of my colleagues and I added the provision requiring a study of post partum care. I think this study is very important and is, in fact, included in the pending amendment.

Let me conclude by saying that today we are making, I think, a very good beginning. It is a very good beginning to deal with a problem that I have seen firsthand, a problem I have discussed with doctors and a problem that I have discussed with other constituents.

So, I commend my colleague from New Jersey, my colleague from Tennessee, and the other cosponsors of this amendment for the work they have done, the work they have done to refine the amendment and the work they have done to bring it to the floor of the Senate today.

I yield the floor.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I rise in strong support of the Bradley amendment. I want to say to my colleague before he leaves the floor, I am going to miss him from this Senate. This is a perfect example. This is a Senator who understands what makes a difference in the lives of real people and goes after these issues with great skill.

I am so delighted to rise as, I think, the first Senator here who has ever actually given birth to testify that this is a very important amendment. I believe it will save lives. I believe it will spare families a great deal of heartache.

I will explain that. First of all, it is just incomprehensible to me that there would be a one-size-fits-all prescription being put out by so many of the HMO's today, when, in fact, each particular case is different from the one before. Not all women have an easy time giving birth. Not all babies have an easy time being born. There are so many complications, there are so many differences, so many problems. Senator DEWINE spoke, I think, from the heart, about having the seventh child and still almost missing a serious problem. I am going to address that in my remarks, I say to my friend.

I think it is important to note that this amendment really gives the flexibility where it belongs, to the patient and to the doctor. I strongly believe that, in any medical procedure, any medical issue, that is where the decision belongs, in the hands of the patient and the hands of the doctor. Childbirth is one of the most incredible experiences a woman can have. It is probably the most exciting—more exciting than winning elections. And, I have to say, it is also very difficult. It is usually very painful. Even in the best of circumstances, where everything just goes according to the book, if there is such a book, it is hard on the woman and it is hard on the baby—even a perfect birth.

In the old days when my mother gave birth to me—and that's the old days—she stayed in the hospital for a week or longer. When I had my children, I stayed in the hospital for several days. It was very important, because I gave birth to premature babies, and they were there in little incubators. In those days, they did not even let you hold the babies, but I so wanted to be close to them, and I was able to stay in the hospital several days while I got stronger, and I watched them happily grow stronger.

When my daughter gave birth just a year ago, or so, the hospital figured she would stay in for 24 hours. She asked her doctor if she could stay in for 2 days. She felt she needed that extra day. Fortunately, he intervened on her behalf and she got to stay in for 48 hours and was very grateful for that.

I do not think that should be a gift from an insurance company. I think that ought to be something that is absolutely a right of a patient. When we have gone from women staying in the hospital for a week or 10 days down to where they are being thrown out after a day, believe me, women are not any stronger today physically than they were then. It is the same thing. So it just doesn't add up.

Particularly new mothers need that option, it seems to me. They need to know how to nurse their children. That may sound strange, but I want to say for the benefit of my colleagues that nursing a baby takes a little bit getting used to. You have to learn how to do it. That added day in the hospital is very important to become comfortable with your baby, to understand the signs to look for if there is trouble. And that brings me to the issue that Senator DEWINE spoke about, the jaundice.

The fact is that many babies do become jaundiced, and it is easy to treat it with light, if you know what to look for. But many of these mothers, because it takes a while for the jaundice to develop, are out of that hospital within 24 hours and are not prepared, and terrible consequences can flow from that.

In the case of my own grandchild, they noticed something right before they left. They told her to watch for jaundice, and it happened. They had to come over and bring the little light boxes into the home.

So I just want to say to my colleague, that added chance, that extra 24 hours can make a great difference. I am very glad he put in the RECORD that Kaiser Permanente supports this. They are a huge HMO in California. I could not be more proud of them for that.

Again, I thank my colleague for bringing an issue to the floor of the Senate that is extremely important to the families of America. I am so proud that I had a moment or five or six to speak to your amendment.

I yield the floor.

Mr. WYDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. I thank the Chair.

Mr. President, I, too, rise to speak in support of the Bradley-Frist amendment. I am going to be very brief this afternoon, but I did want to take a minute or two and discuss a General Accounting Office report that I will have coming out next week. The General Accounting Office has summarized a number of findings in a report for me, which report will be available next week, and I would like to discuss those findings very briefly.

First, it seems to me that, if you pass this important legislation, our country increases the odds that the next generation gets off to a healthy start. That is what this legislation is all about: getting off to a healthy start.

As I mentioned, I asked the General Accounting Office a number of months ago to help the Congress identify the risks attributable to foreshortened hospital stays for mothers and their newborns, as well as to analyze health care plans on how well they provide postpartum care.

The General Accounting Office has given me a letter, Mr. President, that I will make a part of the RECORD this afternoon, but I would like to summarize very briefly just four of the findings in the General Accounting Office report that they will have next week.

The first is the General Accounting Office has pinpointed studies analyzing readmission statistics that indicate that babies staying less than 48 hours do, in fact, have a higher rate of rehospitalization for health problems.

The General Accounting Office concludes that not every early discharge is a danger to each and every child, but certainly there are studies that do indicate that readmission statistics demonstrate that babies staying less than 48 hours do, in fact, have a higher rate of rehospitalization.

Second, the General Accounting Office has found that a number of the discharge plans are simply that they are just a drive-by delivery with no at-home follow up to ensure that the mother and the child are doing well.

Third, the General Accounting Office has found that while a number of the States do have laws on the books that deal with this practice, not all of the insured individuals, and certainly some of the most vulnerable of America's families, are protected by these laws. So I think it is fair to conclude that there is a very significant variation with respect to consumer protection in terms of State laws, and I think that, too, makes a compelling argument for the Bradley-Frist legislation.

Fourth—and I close with this point, because I think it is the most significant one and, in and of itself, makes the case for the Bradley-Frist bipartisan legislation—the General Accounting Office has found that a significant number of plans offer doctors alternative financial incentives for early discharge and significant penalties for keeping young mothers and babies in the hospital longer than the plans would like. So what we have—and I point out that this will be the first Government study looking at this problem—is already significant evidence that two sets of disincentives to good health for young families exists on the basis of the GAO report: first,

the question of plans offering financial incentives for early discharge and, second, the matter of heavy penalties that the GAO has found in a number of instances for keeping young mothers and babies in the hospital longer than the plans would like.

What it comes down to—and I sure hope we get a unanimous vote in a few minutes with respect to this legislation—is that this Congress has a chance to put some votes behind all of the family-friendly rhetoric.

I am very hopeful that the Bradley-Frist legislation will pass on a bipartisan basis. I think that the Senator from New Jersey has contributed so much, but what an important bill on which to finish a stellar career.

Mr. President, I ask unanimous consent to have printed in the RECORD the letter from the General Accounting Office to which I referred.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

GAO, HEALTH, EDUCATION, AND HUMAN SERVICES DIVISION,
Washington, DC, September 4, 1996.

Hon. RON WYDEN,
U.S. Senate.

DEAR SENATOR WYDEN: To contain costs, some health care plans have adopted guidelines to shorten hospital stays associated with maternity care—the most common condition requiring hospitalization. Some plans have limited hospital coverage for mothers and their newborns to a maximum of 24 hours after delivery. As a result, between 1980 and 1994, the percent of 1-day postpartum hospital stays rose from about 9 percent to about 40 percent of all births. Many in the medical community have voiced concerns that these shortened stays expose newborns to undue risks.

To better understand the issues involved, you asked us to (1) identify the risks that are attributable to short hospital stays for maternity care, (2) examine health plan actions to ensure quality postpartum care for short-stay mothers and newborns, and (3) determine state responses to concerns about patient protection. To do this study, we analyzed pertinent trend data and interviewed medical experts and representatives from hospital maternity programs, managed care organizations, home health agencies, medical specialty societies, and health care trade associations. In briefing your staff on our work, we noted that our report would be available by the end of next week. In the interim, you asked us to summarize the results of our work. Our key findings include the following:

Guidelines issued by the American Academy of Pediatrics suggest—notwithstanding the presence of complications—either minimum 2-day stays for vaginal deliveries and 4-day stays for caesarean sections or shorter stays if: (1) Medical stability criteria are met, (2) the decision on length of stay is agreed to by physician and patient, and (3) provisions are made for timely, comprehensive followup care delivered by a maternity care professional.

Neither researchers nor medical experts agree about the direct effect of short stays on maternal and newborn health. Using hospital readmission rates as an indicator of adverse outcome, one recent study shows no association between the number of days a newborn spends in the hospital and the rate of readmission, while other studies show increased risk for newborns discharged within 48 hours of birth.

Some plans allow physicians flexibility to apply early discharge policies selectively. In addition, they have programs of maternity care services that include intensive prenatal assessment and education and comprehensive followup care provided within 72 hours of discharge by a trained professional at home or in a clinic. We found, however, that some plans with shortened postpartum stays do not provide adequate prenatal education or appropriate followup services. For example, some plans' followup care consists of a phone call rather than an actual home or office visit.

Early discharge policies have prompted more than half the states to enact laws that regulate the length of maternity stays but vary widely in degree of consumer protection and do not apply to all insured individuals. For example, states vary on whether the law specifies stay minimums, identifies discharge decision makers, or mandates number of home visits covered, among other things. The laws are also limited in jurisdictional scope in that they: (1) Do not apply to plans that are exempt from state regulation under the Employee's Retirement Income Security Act of 1974 (ERISA) or (2) may not apply to individuals living in one state but working and receiving insurance in another.

Federal legislation has been introduced to make maternity care more consistent nationally and available to all privately insured women. The Senate is considering S. 969, Newborns' and Mothers' Health Protection Act, which would mandate a minimum 48-hour hospital stay for normal vaginal deliveries and 96-hour stays for caesarean section deliveries unless the attending provider, in consultation with the mother, makes the decision to discharge early and coverage is provided for prescribed timely followup care. Timely care is defined as care provided in a manner that meets the health care needs of the mother and newborn, provides for appropriate monitoring of their conditions, and occurs within 24–72 hours immediately following discharge. These provisions are consistent with the findings contained in our forthcoming report.

We hope that this information meets your needs in considering proposed federal legislation on hospital length of stays for maternity care. Please call me on (202) 512-7119 if you or your staff have any questions regarding the issues discussed above.

Sincerely yours,

SARAH F. JAGGAR,
Health Service Quality and Public Health Issues.

Mr. WYDEN. Mr. President, I yield the floor and will make for the Senators a copy of the General Accounting Office's findings a matter of the Record. I yield the floor.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I thank the Chair for recognizing me.

I am so glad Senator BRADLEY came to me sometime back in October about this legislation and asked if I could become a cosponsor, which I readily did. I have not been a mother myself, but I have been around mothers. I am the husband of one, the father of two, and potentially the grandfather of five.

In any case, this Newborns' and Mothers' Health Protection Act, as it is formally titled, will be beneficial to countless mothers and their newborn children, because it will restore health care decisions to those best suited to make them—the mothers and their doctors—while making certain that new mothers and their babies are allowed to remain in the hospital at least 48 hours following natural births and 96 hours after Caesareans.

As Senators have already pointed out several times, in some instances new mothers and their babies are forced to leave the hospital as early as 8 hours after delivery because insurance companies often refuse to pay the bills otherwise.

It simply is unconscionable to require a new mother and her doctor to make this decision based on arbitrary insurance deadlines. That is what the distinguished Senator from New Jersey had in mind. I compliment him on this amendment and I am honored to be a cosponsor.

I am not alone in my contention that mothers and their physicians are better able to determine what is needed to promote a mother's and child's health rather than some arbitrary insurance deadline.

As a matter of fact, a Dartmouth-Hitchcock Medical Center study concluded that babies released earlier than 48 hours after birth had a 50-percent greater chance of needing readmission to the hospital and a 70-percent increased risk of emergency room visits.

Mr. President, the too-early discharges so often lead to jaundice which afflicts approximately one-third of newborns, dehydration resulting from breast-feeding difficulties and infections. Although these conditions are of course treatable, each must be diagnosed quickly, within 3 to 5 days, lest they result in brain damage or worse.

Mr. President, in recent years hospitals around the Nation have reported an increasing number of babies being readmitted to hospitals with complications of dehydration and jaundice.

A Virginia infant suffered dehydration-induced brain damage, and severe dehydration of a Cincinnati baby led to the amputation of his leg. The truth is that these tragedies could have been prevented with longer hospital stays.

Back in the 1970's, postbirth hospital stays were about 4 or 5 days for routine normal births, and 1 to 2 weeks for Caesareans. According to the Centers for Disease Control, the median length of hospitalization between 1970 and 1992 for mothers having normal births declined by 46 percent, from 3.9 to 2.1 days, and by 49 percent for mothers having Caesareans, from 7.8 to 4 days.

There is broad agreement, I think, about the importance of reducing health care costs and I agree with that. While I am convinced that this goal can best be accomplished through less,

not more, Federal regulations, I also insist that the well-being of mothers and babies must not be compromised in the process. This amendment addresses a unique, isolated problem which can be addressed by a carefully crafted Federal rule. And that is exactly what Senator BRADLEY has done. And I compliment him for offering this amendment.

In short, Mr. President, the Newborns' and Mothers' Health Protection Act of 1996, will ensure that arbitrary insurance guidelines do not override the objective of healthy births.

I thank the Chair and yield the floor.

The PRESIDING OFFICER (Mr. BROWN). Who seeks recognition?

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. BRADLEY. Mr. President, I suggest the absence of a quorum.

Mr. CHAFEE. I wonder if the Senator would withhold that.

Mr. BRADLEY. I withhold.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, when I heard about this amendment of the Senator from New Jersey originally, my first thought was, why is the Federal Government getting involved in deciding how long hospital stays are? It seemed to me that was a matter that quite properly should be handled by States. And indeed in my State we have handled it. We have a bill, the best as I understand it, that is very similar to the suggestion of the bill proposed by the Senator from New Jersey.

Indeed, I made notes of the Senator's remarks. He indicated that some 28 States have taken action. That does not mean they have gone the complete route—and the Senator can obviously explain that further—but I take it some 28 States have dealt with this matter of how long a hospital stay should be or could be.

So I will confess that my original reaction was unfavorable to the Senator's proposal. However, two things happened. For one thing, my daughter called me. She has four children and she has some views on this subject. And also the ERISA point that the Senator raised. And I would like to explore that if I might.

Finally, the so-called Frist amendment. I am not sure exactly what the Frist amendment does. But my first question would be, of the Senator from New Jersey, as I understand it—first, I want to say, I listened to his arguments. One of his arguments is that you need a national law because you might have the State wherein the individual resides on a town right on the border of another State where the hospital is that serves that town, and the other State does not have the legislation.

However, I thought the most telling argument he made was the so-called ERISA argument. That is, as I understand it, that because ERISA applies to those corporations that have interstate health care plans, that the ERISA law prevents the State government—and we dealt with this, of course, when we were dealing with the health care business in 1994—the ERISA prevents the State law from getting involved with the plans that are covered by the ERISA statute.

I had not thought of that. And so first, if the Senator would be good enough to explain a little bit on that. Is that point correct?

Mr. BRADLEY. Mr. President, I say to the distinguished Senator from Rhode Island, yes, the Senator is correct. For example, we have had on the floor today the Senator from Delaware speaking. One of the largest employers in his State is DuPont. And we had the Senator from Minnesota speaking. One of the larger employers in his State is 3M. Each has what is known as a self-ensured ERISA plan. And under a State law, in Minnesota or Delaware, as each of the Senators has testified today on the floor, it could not reach those plans in requiring them to allow 48 hours for delivery. Only this Federal law would achieve that objective.

Mr. CHAFEE. So your point is, to follow it up, it only would be a Federal law that would deal with that situation. The State law could not affect it.

The second point that would be helpful—maybe I should address this to the Senator from Tennessee. I am not sure exactly what the Frist amendment is. What does it do?

Mr. BRADLEY. I think I can answer. Essentially, the differences between the first- and second-degree amendments are minimal. The only difference relates to a deletion of the sentence that essentially is inconsequential but was confusing, and the second-degree amendment adds a sentence that gives some flexibility to health plans.

Mr. CHAFEE. Now, is this the so-called Kaiser Permanente language? Is that in the first amendment?

Mr. BRADLEY. I say to the Senator that in the first amendment is language that does allow some flexibility, and I think it would be in the first amendment. I think Kaiser Permanente endorsed both the first- and the second-degree amendments.

Mr. CHAFEE. Now, the final question, the number of States that have dealt with this you say is 28 in total or in part?

Mr. BRADLEY. The answer to the question is yes, 28 States have passed laws that require insurers to provide 48 hours for a delivery, coverage for 48 hours for delivery.

As the Senator has pointed out, there are a few gaps there. One is the ERISA problem; the other is the problem of the hospital that is across a State line in a State that is uncovered. Then there is the New Jersey problem. I guess some other State law might have that problem, but in New Jersey the State passed a law that said that the State requirement of 48 hours would apply to only those insurance companies that were headquartered in New Jersey. So you could be headquartered in another State and you would not be covered. This could get at that issue as well.

Mr. CHAFEE. I thank the Senator for that description.

As I say, I am troubled by the U.S. Congress getting involved in an issue like this. I found the explanation, particularly the ERISA argument, to be a very telling argument.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. FRIST. Mr. President, just to sort of further clarify, the Kaiser Permanente language was basically a clarification of the way it was written. It was written in the bill that if you are discharged in fewer hours than 48 hours—this bill says you have a safe haven for 48 hours and followup care has to be somewhere—you have to have care for 48 hours. You cannot be dumped out of the hospital after 6 hours, and that is the end of it.

What Kaiser said is you need to make it clear that it is the health care provider who determines, in consultation with the mother, as to where that followup care is delivered. In other words, it is not just up to the mother as to where the followup care during the 48 hours was delivered. That was written into the bill.

My amendment was to clarify that further.

Mr. CHAFEE. Mr. President, I think that is an important point. I will give my qualifications in the area. I had six children. I suppose that would give me some knowledge about this subject.

As I understand it, if a mother should choose to leave in 24 hours—obviously, that is a big savings to the insurance company; say it cost $1,000 a day in a hospital, and I do not think that is outrageous and that suggestion is pretty much on the mark, or something like that—it may well be that the mother would vastly prefer being home but have some help at home, and maybe that help would extend for 5 days. How do you handle that?

Mr. FRIST. The health care plan can put whatever they want in. It has to be a minimum of 48 hours coverage. That coverage can be in any facility that the mother and the physician decide—not the health insurance plan—that they decide, during that 48-hour period. After that 48 hours after vaginal delivery or 72 hours after a C-section, it can be dictated by the insurance company.

Mr. CHAFEE. So in other words, the mother could say, "I want to go home in 24 hours," but she would get the care, somebody at home would care, if she wanted, for the next 24 hours?

Mr. FRIST. That is right. It could be at home, a followup clinic, a birthing clinic. That is why it was important in this bill to give the flexibility. We do not know how babies will be delivered 4 years from now.

Initially, it was fairly rigid, 48 hours in the hospital. Now the bill is flexible enough to say for 48 hours you are covered, and it can be in the setting that you and your doctor decide, not some insurance company or not somebody sitting 500 miles away behind a telephone.

Mr. CHAFEE. Thank you.

Mr. BROWN. Mr. President, the Bradley amendment denies consumers the right to select the type of insurance coverage they wish to purchase. While I would hope all policies would include the type of maternity coverage he suggests, for the Federal Government to mandate it is a mistake. It establishes a precedent that consumers are no longer free to choose. I thus oppose the amendment.

Ms. MOSELEY-BRAUN. Mr. President, I want to take this opportunity to express my support for the Bradley amendment.

A few weeks ago Congress made an important step in the right direction of adding necessary reform to our health care system. By limiting exclusions for pre-existing conditions and by making health insurance coverage portable, we answered the concerns of millions of Americans that they will lose their access to health care. While I believe universal health coverage should be the ultimate goal, the Health Insurance Reform Act represented a practical, incremental, and caring attempt to deal with the real health care problems facing so many Americans, based on their everyday realities.

Similarly, the Bradley amendment makes an important step in the right direction. It is hard to conceptualize that the growing trend among health insurers is to force new mothers and their infants to leave the hospital 24 hours after an uncomplicated vaginal delivery and 72 hours after a cesarean section. In many cases, 24 hours is not sufficient time to recover physically from the birth, not to mention have time to learn essential child care information. You would think that this alone would be sufficient to warrant allowing new mothers to stay longer in the hospital. Having a mother who is strong and prepared to care for her new child will avoid unnecessary return visits to the hospitals due to insufficient care.

It is also important to note that many of the health problems newborns face such as dehydration and jaundice do not appear until after the first 24 hours of life. If undiagnosed, these easily treatable conditions can lead to brain damage, strokes, and in the worst case scenarios, death. There is no justification against monitoring babies that we know may be at risk for clearly preventable health conditions.

I do not believe that this bill is the panacea for health problems facing mothers and newborns in this Nation. The proportion of babies born at low birth-weight in the United States has been rising since 1984, and is now at its highest level since 1976. Nearly 300,000 babies, 7.2 percent of all those born in 1993, were born at low birth-weight. These infants were more vulnerable to infant death and serious health problems, such as developmental delays, cerebral palsy, and seizure disorders, as a result of their shaky start in life.

We need to focus more attention on making our children healthy on the front-end so that we never have to have a discussion about how long a new mother and baby should stay in a hospital. In 1993, almost 200,000 children were born to women who received either no prenatal care or prenatal care after the first trimester of their pregnancy. Good prenatal care can reduce rates of low-weight births and infant mortality, thus preventing disabilities and savings billions of dollars which are spent each year on caring for very sick newborns.

While the Bradley amendment is far from the total answer to the health problems of new mothers and their children, we should not underestimate the importance of what we will be achieving if this policy becomes law. Protecting the ability for mothers and infants to remain in the hospital up to 48 hours for vaginal deliveries and 96 hours for cesarean births has been endorsed by all four major medical groups which involved in maternal health and caring for newborns: the American Medical Association, the American Academy of Pediatrics, the American College of Obstetricians and Gynecologists, and the American Nurses' Association.

I want to conclude by congratulating Senators BRADLEY, KASSEBAUM, and FRIST for their leadership and for all the hard work they have put in to building momentum for this important amendment. I strongly urge the Senate to adopt the Bradley amendment. I urge all of my colleagues to think about how much this bill means to Americans all across this country, and how critically necessary it is to make this improvement in our health care system. This amendment is another good step in the right direction.

Mr. KENNEDY. Mr. President, I commend my colleagues, Senator BRADLEY and Senator KASSEBAUM, for their leadership in bringing this important legislation before the Senate for consideration. Current trends in health care financing have created a clear need for this legislation. Doctors are under increasing pressure from insurance companies to discharge mothers and newborns earlier and earlier.

Until a few years ago, the birth of a child was typically followed by a 4-day hospital stay for the mother and her newborn, so that mothers had time to recover from labor and delivery, and learn about the care of their infants. Health care providers had adequate time to watch the initial development of the newborns carefully, to assure that the babies were healthy. This initial period of expert observation is critical, since it means early diagnosis and immediate response and treatment when complications develop.

Now, however, the length of stay following a normal delivery is commonly only a day or two, and in many cases, even less.

To some extent, this change results from better medical management of childbirth, and greater responsiveness to women's desire for a less hospital-centered and more family centered experience of childbirth. But the dominant motivation behind these shortened stays, however, is the financial incentive to reduce the cost of childbirth, which is the most common cause of hospitalization in the United States. Profit, not sound medical judgement is driving the increasingly serious problem of drive-through deliveries.

The guidelines of the major medical societies provide for at least 2 days of hospitalization after a normal delivery, to give mothers adequate time to recover and learn to care for their infant in a restful atmosphere where professional help is immediately available.

Serious harm can result if a mother and her newborn are released too soon. Conditions such as jaundice and dehydration typically do not appear until after the first 24 hours of life. Recent research in Massachusetts shows that babies discharged less than 1 day after birth have a 25 times higher rate of not being screened for treatable congenital disorders, compared with babies who stay longer.

Many serious condition are not easy to detect. Long-term disabilities—even death—may result. Congress should not acquiesce in irresponsible insurance industry practices that put profits ahead of families and the bottom-line ahead of babies. This legislation will guarantee that mothers and their doctors—not insurance companies—decide when to leave the hospital after childbirth.

This legislation was written in accord with the recommendations of the two leading medical societies with expertise in this area—the American College of Obstetricians and Gynecologists, and the American Academy of Pediatrics. They endorse this amendment. There is clear agreement among these experts that hospital stays should range from 48 hours for normal deliveries to 96 hours for cesarean sections.

By adopting this legislation, the Senate will not be requiring mothers and newborns to stay in the hospital unnecessarily. In many cases, mothers, in consultation with their doctors, will

elect to go home early. But this amendment will guarantee that patient choice and medical judgment guide this decision—not insurance company orders.

I urge the Senate to support this important legislation. It has broad, bipartisan support. It is endorsed by the American Academy of Pediatrics, the American College of Obstetrics and Gynecologists, the American Medical Association, the American Nurses Association, the Association of Women's Health, Obstetric, and Neonatal Nurses, and the March of Dimes Birth Defects Foundation. It is appropriate—indeed overdue—for the Federal Government to set these minimum standards for health and safety. Newborns should not be placed at risk for the sake of insurance industry profits.

Ms. MIKULSKI. Mr. President, I rise today in support of the newborns' and mothers' health protection amendment. I am proud to be a cosponsor of this legislation. This amendment is about family friendly health care. It puts the care of mothers and babies before the financial interests of insurance companies. It puts into practice what we have always preached—to honor the mother and to defend motherhood.

This amendment requires that insurance companies provide coverage for care for a minimum of 48 hours after a vaginal delivery and 96 hours after a caesarean section. It allows mothers and infants to be discharged earlier if there is appropriate follow-up care. This is consistent with the practice guidelines issued jointly by the American College of Obstetricians and Gynecologists [ACOG] and the American Academy of Pediatrics [AAP].

What I like about this amendment is that what we explicitly state as our values, we implicitly practice in public policy and public law. What we do with this legislation is ensure that mothers and their babies receive the care that they need, that is deemed appropriate by their physicians. On both sides of the political aisle, we talk about putting families first. This amendment does that. It puts value on motherhood.

This whole movement around providing care for 48 hours or 96 hours or whatever is medically appropriate came from mothers themselves. Then it was the movement of the extraordinary medical facilities that were willing to step forward and even defy the insurance companies. St. Agnes Hospital in my hometown of Baltimore insisted that they would provide this care if they had to do it out of a charitable endowment or if we all had to pitch in and do bake sales. St. Agnes took a stand—they were going to assure that mothers and their babies got what they needed when they needed it. That resulted in the Maryland general assembly acting—and now I am proud to say that Maryland has a law that really mirrors in many ways what we are doing in the Federal legislation.

So, I salute Senator BRADLEY for offering this amendment, but I also salute the mothers who organized, and the doctors and medical facilities who defied the insurance companies. I want to see managed care, but I don't want to see doctors managed. There is a fundamental distinction. We have to start getting our priorities straight and decide where we are going to be making our decisions. And in the case of newborns and their mothers—I believe decisions need to be made in the delivery room and not the boardroom.

I urge support for this amendment.

Ms. SNOWE. Mr. President, as a cosponsor of the Newborns and Mothers Health Protection Act, I am extremely pleased to rise in support of this amendment to the VA/HUD appropriations bill. My colleague from New Jersey, Senator BRADLEY, has worked steadfastly and diligently for well over a year to bring this important bill to the floor, and I commend him for his tireless efforts. I share his concern over the growing practice of what has come to be known as drive-thru deliveries, and I believe that this practice of discharging new mothers and their infants too soon after delivery is simply unacceptable.

This amendment requires health plans to provide coverage for a minimum hospital stay for a mother and her newborn infant following delivery, in accordance with established medical guidelines. These guidelines, developed in 1983 by the American College of Gynecologists and Obstetricians and the American Academy of Pediatrics, recommend that mothers remain in the hospital for 48 to 96 hours after giving birth, depending on the type of delivery. Shorter hospital stays are permitted if the physician, in consultation of the mother, determines that is the best course of action. For those mothers and newborns who leave the hospital after staying less than 48 or 96 hours, followup care within 72 hours of discharge must be provided in order to monitor both the mother and the infant during this vulnerable time.

Since 1970, the average hospital stay for newborns has been cut almost exactly in half. Today, many insurers provide for only a 24-hour stay for deliveries, while some medical plans call for discharging women within 8 to 12 hours of a birth. Usually, women are not informed of these policies until they are already in the hospital. Many doctors who decide, based on their best medical judgment, that their patients should stay beyond the short timeframe are overruled by insurance companies. Others are unduly pressured to release these women and their babies prematurely.

There are certain myths surrounding the impact of this bill, so I would like to clarify what this bill does not do. It does not mandate how long a mother and baby must stay in the hospital. It simply states that these patients may stay in the hospital up to the minimum period recommended by established medical guidelines. Insurers are permitted, and even encouraged, to develop alternatives to inpatient care, and to allow doctors, in consultation with their patients, to select the type of care which is most appropriate for a mother and her baby.

I believe that this bill is one of the most important pieces of legislation this Congress has and will consider in the 104th Congress. To date, stories abound about women whose infants have suffered physical harm and even death as the result of early discharge policies. No woman or family should have to endure such tragedy.

Often, doctors are not able to detect certain health problems in infants within the first 12 or 24 hours after birth. For example, doctors may be unable to detect jaundice—a disorder which may lead to permanent brain damage—within the first day after birth. Other infants have been released before their doctors had time to test them for PKU—an easily treated metabolic disorder that causes mental retardation if not detected early enough.

In addition, early discharge deprives mothers of important opportunities to learn how best to care for their infants, including proper breast feeding techniques. Problems with breast feeding can cause infants to suffer severe medical complications—even death—from dehydration. Hospitals report that increasing numbers of women and their children are returning for care after discovering problems such as life-threatening infections that could have been caught if the mother and child had been able to stay in the hospital just a little bit longer. While the financial costs of hospital readmissions resulting from early discharge can be astronomic, the human costs can be truly tragic.

Twenty-eight States have passed maternity stay laws similar to this bill, including my home State of Maine. However, State legislation alone does not sufficiently protect the women of America and their newborns. For example, many women are not protected by State legislation because they work for employers with self-insured plans shielded by Federal ERISA preemption. In addition, women who live in one State and work in another may find themselves vulnerable without Federal legislation.

Don't we owe it to the women of America and to our very youngest citizens—those who are only a few days old—to ensure that they enjoy the full protections and benefits of one of the best health care systems in the world?

There is nothing more precious than the birth of a child. There is nothing more tragic than the death of an infant that could have been prevented. That is why we must leave it to doctors, not

insurers, to decide how long women stay in the hospital following delivery in accordance with established medical guidelines. I urge my colleagues to join me in supporting this important amendment.

Mr. FAIRCLOTH. Mr. President, I would like to comment briefly on the amendment offered by Senator BRADLEY, the Newborns' and Mothers' Health Protection Act.

Supporters of this legislation contend that it is becoming a widely used cost-containment practice of health insurers to force the premature discharge of mothers and their newborns from the hospital following childbirth. In other words, insurance companies supposedly are improperly influencing doctors' medical decisions regarding the appropriate lengths of stay for mothers and newborns following childbirth. The remedy proposed in this amendment would require insurance companies to cover at least 48 hours of inpatient care following an uncomplicated vaginal delivery and 96 hours following a cesarean delivery.

Mr. President, I certainly share the concerns which have been expressed in this debate regarding the health and safety of mothers and their newborn children. I am troubled, however, over the construction of this legislation. Not only would this amendment become the first Federal law to mandate health insurance benefits, it also comes dangerously close to being a statutory prescription for the practice of medicine.

I believe that no one is more qualified than a woman's doctor to judge how long that woman and her newborn child should stay in the hospital following childbirth. Just as I believe that an insurance company has no business second guessing this decision, I firmly believe that the Government also has no prerogative to interfere.

While I realize that this legislation does not require a woman and newborn to spend 48 hours in the hospital after childbirth; the construction of this amendment, and the specification of 48 and 96 hours of coverage, strongly implies that these figures are some sort of legally significant standard for the length of stay.

The sponsors of this legislation argue that legislation is necessary to ensure that mothers and newborns are assured an appropriate hospital stay following childbirth. Obviously, the appropriate length of stay will depend on each mother and child individually, and the attending doctor is the most qualified authority to make this decision. I am concerned that, according to this amendment's construction, the decision of the doctor is made an exception to the legislation's 48 and 96 hour standards, rather than the rule.

If it is necessary to pass legislation to assure the health and safety of mothers and newborns, then we should do it by protecting the authority of doctors to make medical decisions regarding their patients, free from interference from both insurance companies and the Government. We should not replace insurance company interference with Government interference.

Mr. BRYAN. Mr. President, I am pleased to be a cosponsor of the Newborns' and Mothers' Health Protection Act of 1996 introduced by Senators BILL BRADLEY, NANCY KASSEBAUM, and BILL FRIST.

This bipartisan legislation—with the support of 52 Senate cosponsors—will help ensure that newborns and their mothers will have the best possible beginning.

Unfortunately, a pattern has begun to develop throughout this country of pushing mothers and their newborns out of the hospital too quickly. Too often, some health insurance plans covering the costs of childbirth offer very limited benefits for post partum hospital stays.

Sometimes the coverage is limited to as little as 24 hours, which in many cases is not long enough to ensure that a mother and her infant remain healthy after their hospital discharge. Sometimes doctors have found that insurers refuse to agree to longer hospital stays, even when the doctor argues the mother and newborn need to remain in the hospital longer.

It is the first couple of days following the birth of a child that are the most critical to ensure the long-term health of both the infant and mother. Many mothers have difficulty in learning how to properly breast feed, putting their infants at risk of inadequate nutrition in their first days of life. Likewise some mothers are just not physically capable of providing for a newborn's care needs within 24 hours of giving birth.

Medically, many health problems experienced by newborns do not show up until after the first 24 hours of life. These include jaundice and dehydration, and other conditions that only health professionals can detect. Early hospital discharges can mean these conditions go undetected until it is too late.

The length of a hospital stay is a question that should not be driven by the limitations of an insurance policy, but should be the joint medical decision of the mother and her physician.

Under this bill, if both the mother and her doctor agree that a shorter post partum stay is acceptable, the stay can be shortened. However, in these situations—and this is the key distinction—the decision will still be a medical one, rather than a financial one.

This bill will require all health care insurance plans, which offer maternity benefits, to cover post-partum stays of at least 48 hours after a vaginal birth, and at least 96 hours after a caesarean section. The bill's hospital stay requirements are consistent with post childbirth guidelines of the American College of Obstetricians and Gynecologists, and the American Academy of Pediatrics.

This bill will end these drive-through baby deliveries, which push mothers and their newborns out of the hospital before they are medically ready to go home. Such drive-through deliveries put the health of both mothers and their babies at risk. A mother and her newborn's homecoming should be a time of celebration, not a time of trepidation because neither was ready to leave the hospital.

In August, the Centers for Disease Control and Prevention released its study of New Jersey's maternity stay law. Following enactment of The State's law, the CDC found that new mothers who had problem free deliveries were the mothers who had stayed in the hospital approximately 10 to 12 hours longer than mothers had prior to the law. The CDC research appears to indicate that just a few hours longer in the hospital can result in major improvements in the health of both the mother and the newborn baby. The importance of those few more hours cannot be underestimated.

Many managed care plans place the care of the mother and newborn infant at the forefront.

But many other managed care plans appear to have put the bottomline of profitability ahead of the real medical needs of newborns and their mothers. Those managed care plans should view this bill as a heads up. Cutting medical costs will not be allowed to undermine the quality of health care.

We all acknowledge the need for controlling health care costs, and support efforts to curtail unnecessary spending. But there also must be a reality check when cost cutting goes so far, that the quality of health care is endangered.

We want every newborn child to have the best chance for long-term health. I urge my colleagues to join in supporting this legislation to give mothers and newborns the assurance that their health needs will always be paramount.

Mrs. FEINSTEIN. Mr. President, I am pleased to support Senator BRADLEY's amendment to require health insurance plans to cover hospital maternity stays for 48 hours for routine deliveries and 96 hours for cesarean deliveries.

The issue here in whether the decision on how long a mother and her newborn stay in the hospital is based on the mother's health or the insurance company's bottom line.

I believe it is a medical decision that should be made by a doctor and a patient.

Before 1970 the median length of stay in this country for routine deliveries was 4 to 5 days. By 1992, the median stay dropped to 2.1 days.

In 1991—the latest year for which figures are available—nearly 40 percent of newborns in California were discharged in fewer than 24 hours.

And the problem seems to be even worse today.

Some insurers limit coverage of postpartum hospital care to 1 day or 12 hours.

One large California HMO has reduced coverage to 8 hours.

These are not generally doctors determining that it is in their patients' best interest to be discharged sooner. The reduction in hospital care is the result of insurance companies making that decision based on how much they want to pay—and the real cost is being borne by patients—mother and child—in greater health risks.

There are many medical reasons why a longer hospital stay may be necessary. Some medical conditions do not manifest in 10 or 24 hours after delivery, such as jaundice, heart murmurs, circulatory disfunctions and fevers.

Early discharges can also exacerbate medical problems:

Studies presented to the Senate Labor Committee have shown that early release of infants can result in the baby having jaundice, feeding problems, respiratory difficulties, metabolic disorders and infections.

In fact, a New Hampshire study of hospital readmission rates found that babies discharged at less than 2 days of age have a 70 percent increased risk of facing an emergency room visit.

Early discharge not only increases health risks, in many cases, it is so much more costly.

A Pasadena women and her 6-week premature infant were discharged after only 23 hours of delivery. The baby was readmitted to the hospital for jaundice and dehydration 2 days later, costing an extra $20,000—$1,000 that had to be paid by the family.

Let me give some examples of the human impact of this problem:

A Los Angeles woman was released 15 hours after giving birth because of limited insurance coverage. Two days later, her baby was hospitalized for malnutrition—the infant had difficulty with lactation and breast feeding.

A San Francisco woman had to leave the hospital 23 hours after delivery against her doctor's advice, even though her baby was 5 weeks premature. The baby was in the emergency room less than 2 days later, and was readmitted to the hospital for dehydration and jaundice.

Another California mother was discharged less than 14 hours after deliver. The next morning she was shaking, feverish, and nauseous. She was diagnosed as having a staph infection and was readmitted to the hospital for 4 days.

Sometimes these stories have tragic endings.

Leigh Fallon, of Petaluma, CA entered the hospital on July 25, 1994. After 2 days of labor with extraordinary complications, she had an emergency caesarean section.

The mother had a high fever and great physical distress. Her baby boy developed jaundice, was being treated with antibiotics, and was diagnosed with a heart murmer.

Still, under pressure from their insurance company, Leah and the baby were discharged 72 hours after birth. The baby was rushed to the hospital a few days later and did not survive emergency heart surgery.

Perhaps nothing could have saved Leah's baby. But clearly, the decision to discharge such a fragile patient was made in the interest of saving money instead of saving a life.

Medical decisions should be made by medical professionsals—not insurance companies. That is what they are trained to do.

Twenty-nine States have enacted legislation or regulations to curb what's called drive-through deliveries. In California, the legislature failed to come to agreement on legislation at the close of the current session. California voters, instead, will face two ballot measures which include regulations on the subject this November.

This is a national problem, and Congress must set a uniform standard in the interest of public health.

I urge my colleagues to join me in voting for the newborns and mothers bill.

Mr. BRADLEY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. KASSEBAUM. Mr. President, as an original cosponsor of the legislation before us, I would like to say how pleased I am that we are ready now to vote on what I think is a very important and useful piece of legislation. I have been proud to work with Senator BRADLEY and Senator FRIST, and I appreciate the efforts of those who have offered some very constructive improvements in the language that have helped to clarify some concerns that existed.

I have visited maternity floors at a number of hospitals. I must tell you, I think this amendment will provide an increased sense of security, particularly to first-time mothers, who will now feel that they can remain in the hospital a bit longer if necessary. Some will ask, "Why not even longer?" Well, how do we know the correct length of stay in each situation? This should be decided on an individual basis. But we do know that even an additional 24 hours is going to make a difference. For some, it will make a big difference—where there is no family available to offer support when they come home and, particularly, as I mentioned, with first-time mothers, where there is uncertainty about what lies ahead. I say thank you to all who have spent a great deal of time and effort on this amendment. It is a very constructive and beneficial piece of legislation.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CHANGE OF VOTE

Mr. HELMS. Mr. President, it was called to my attention that last evening there must have been some confusion. I take responsibility for it. I don't know what happened. I was incorrectly identified as voting against the motion involved in vote No. 267.

I ask unanimous consent that it be in order for me to have my vote recorded as voting in the affirmative in that instance instead of in the negative.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The PRESIDING OFFICER. I thank the Chair.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. Mr. President, I ask unanimous consent that the vote on the Frist amendment No. 5193 occur at 5:35 p.m. today, and immediately following that vote, the Senate proceed to vote on or in relation to the Bradley first-degree amendment, as amended, if amended; further, that immediately following that vote, Senator DOMENICI be recognized to offer an amendment regarding mental health, which was previously listed as a Wellstone amendment, and that the preceding occur without any intervening action.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. FRIST. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. BRADLEY. Mr. President, I strongly support the amendment of the

distinguished Senator; the amendment to my amendment. I hope we adopt it unanimously by a large, overwhelming vote, and hopefully we will be able to move forward. It is an amendment that would confirm that insurers have to allow 48 hours for delivery of a child by a mother in the hospital, 96 hours for cesarean section. The Senator's changes are merited and important. It is a pleasure to work with him. I look forward to the 5:35 hour so that we can vote. Maybe we can move sooner.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BRADLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The hour of 5:35 having arrived, the question is on agreeing to the amendment of the Senator from Tennessee. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Oregon [Mr. HATFIELD] and the Senator from Alaska [Mr. MURKOWSKI] are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon [Mr. HATFIELD] would vote "yea."

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 272 Leg.]

YEAS—98

Abraham	Feinstein	Lugar
Akaka	Ford	Mack
Ashcroft	Frahm	McCain
Baucus	Frist	McConnell
Bennett	Glenn	Mikulski
Biden	Gorton	Moseley-Braun
Bingaman	Graham	Moynihan
Bond	Gramm	Murray
Boxer	Grams	Nickles
Bradley	Grassley	Nunn
Breaux	Gregg	Pell
Brown	Harkin	Pressler
Bryan	Hatch	Pryor
Bumpers	Heflin	Reid
Burns	Helms	Robb
Byrd	Hollings	Rockefeller
Campbell	Hutchison	Roth
Chafee	Inhofe	Santorum
Coats	Inouye	Sarbanes
Cochran	Jeffords	Shelby
Cohen	Johnston	Simon
Conrad	Kassebaum	Simpson
Coverdell	Kempthorne	Smith
Craig	Kennedy	Snowe
D'Amato	Kerrey	Specter
Daschle	Kerry	Stevens
DeWine	Kohl	Thomas
Dodd	Kyl	Thompson
Domenici	Lautenberg	Thurmond
Dorgan	Leahy	Warner
Exon	Levin	Wellstone
Faircloth	Lieberman	Wyden
Feingold	Lott	

NOT VOTING—2

Hatfield	Murkowski

The amendment (No. 5193) was agreed to.

AMENDMENT NO. 5192, AS AMENDED

The PRESIDING OFFICER. The vote now occurs on the Bradley amendment as amended. The question is on agreeing to the amendment.

The amendment (No. 5192), as amended, was agreed to.

Mr. BRADLEY. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 5194

(Purpose: To provide health plan protections for individuals with a mental illness)

The PRESIDING OFFICER. Under the previous order, the Senator from New Mexico is recognized to offer an amendment.

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I just wanted to tell the Senators this is going to be the Domenici, Wellstone, et al., amendment that we have voted out here before on mental illness. I do not believe we are going to take more than 40 minutes on the entire amendment. We will ask for the yeas and nays. I would just like to make sure everybody understood that.

Shortly, I am going to send to the desk an amendment on behalf of myself, Senator WELLSTONE, and a number of Senators who have asked to be cosponsors, including Senator SIMPSON, CONRAD, KENNEDY, INOUYE, REID, DODD, GRASSLEY, KASSEBAUM, BURNS, HARKIN, and MOYNIHAN, and I send the amendment with the cosponsors to the desk and ask for its immediate consideration. I ask Senator CHAFEE be added, and Senators HATFIELD and DORGAN also.

The PRESIDING OFFICER (Mr. BENNETT). The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for himself, Mr. WELLSTONE, Mr. SIMPSON, Mr. CONRAD, Mr. KENNEDY, Mr. INOUYE, Mr. REID, Mr. DODD, Mr. GRASSLEY, Mrs. KASSEBAUM, Mr. BURNS, Mr. HARKIN, Mr. MOYNIHAN, Mr. CHAFEE, Mr. HATFIELD and Mr. DORGAN, proposes an amendment numbered 5194.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new title:

TITLE ___—MENTAL HEALTH PARITY

SEC. ___01. SHORT TITLE.

This title may be cited as the "Mental Health Parity Act of 1996".

SEC. ___02. PLAN PROTECTIONS FOR INDIVIDUALS WITH A MENTAL ILLNESS.

(a) PERMISSIBLE COVERAGE LIMITS UNDER A GROUP HEALTH PLAN.—

(1) AGGREGATE LIFETIME LIMITS.—

(A) IN GENERAL.—With respect to a group health plan offered by a health insurance issuer, that applies an aggregate lifetime limit to plan payments for medical or surgical services covered under the plan, if such plan also provides a mental health benefit such plan shall—

(i) include plan payments made for mental health services under the plan in such aggregate lifetime limit; or

(ii) establish a separate aggregate lifetime limit applicable to plan payments for mental health services under which the dollar amount of such limit (with respect to mental health services) is equal to or greater than the dollar amount of the aggregate lifetime limit on plan payments for medical or surgical services.

(B) NO LIFETIME LIMIT.—With respect to a group health plan offered by a health insurance issuer, that does not apply an aggregate lifetime limit to plan payments for medical or surgical services covered under the plan, such plan may not apply an aggregate lifetime limit to plan payments for mental health services covered under the plan.

(2) ANNUAL LIMITS.—

(A) IN GENERAL.—With respect to a group health plan offered by a health insurance issuer, that applies an annual limit to plan payments for medical or surgical services covered under the plan, if such plan also provides a mental health benefit such plan shall—

(i) include plan payments made for mental health services under the plan in such annual limit; or

(ii) establish a separate annual limit applicable to plan payments for mental health services under which the dollar amount of such limit (with respect to mental health services) is equal to or greater than the dollar amount of the annual limit on plan payments for medical or surgical services.

(B) NO ANNUAL LIMIT.—With respect to a group health plan offered by a health insurance issuer, that does not apply an annual limit to plan payments for medical or surgical services covered under the plan, such plan may not apply an annual limit to plan payments for mental health services covered under the plan.

(b) RULE OF CONSTRUCTION.—

(1) IN GENERAL.—Nothing in this section shall be construed as prohibiting a group health plan offered by a health insurance issuer, from—

(A) utilizing other forms of cost containment not prohibited under subsection (a); or

(B) applying requirements that make distinctions between acute care and chronic care.

(2) NONAPPLICABILITY.—This section shall not apply to—

(A) substance abuse or chemical dependency benefits; or

(B) health benefits or health plans paid for under title XVIII or XIX of the Social Security Act.

(3) STATE LAW.—Nothing in this section shall be construed to preempt any State law that provides for greater parity with respect to mental health benefits than that required under this section.

(c) SMALL EMPLOYER EXEMPTION.—

(1) IN GENERAL.—This section shall not apply to plans maintained by employers that employ less than 26 employees.

(2) APPLICATION OF CERTAIN RULES IN DETERMINATION OF EMPLOYER SIZE.—For purposes of this subsection—

(A) APPLICATION OF AGGREGATION RULE FOR EMPLOYERS.—All persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986 shall be treated as 1 employer.

(B) EMPLOYERS NOT IN EXISTENCE IN PRECEDING YEAR.—In the case of an employer which was not in existence throughout the preceding calendar year, the determination of whether such employer is a small employer shall be based on the average number

of employees that it is reasonably expected such employer will employ on business days in the current calendar year.

(C) PREDECESSORS.—Any reference in this subsection to an employer shall include a reference to any predecessor of such employer.

SEC. ___03. DEFINITIONS.

For purposes of this title:

(1) GROUP HEALTH PLAN.—

(A) IN GENERAL.—The term "group health plan" means an employee welfare benefit plan (as defined in section 3(1) of the Employee Retirement Income Security Act of 1974) to the extent that the plan provides medical care (as defined in paragraph (2)) and including items and services paid for as medical care) to employees or their dependents (as defined under the terms of the plan) directly or through insurance, reimbursement, or otherwise.

(B) MEDICAL CARE.—The term "medical care" means amounts paid for—

(i) the diagnosis, cure, mitigation, treatment, or prevention of disease, or amounts paid for the purpose of affecting any structure or function of the body,

(ii) amounts paid for transportation primarily for and essential to medical care referred to in clause (i), and

(iii) amounts paid for insurance covering medical care referred to in clauses (i) and (ii).

(2) HEALTH INSURANCE COVERAGE.—The term "health insurance coverage" means benefits consisting of medical care (provided directly, through insurance or reimbursement, or otherwise and including items and services paid for as medical care) under any hospital or medical service policy or certificate, hospital or medical service plan contract, or health maintenance organization contract offered by a health insurance issuer.

(3) HEALTH INSURANCE ISSUER.—The term "health insurance issuer" means an insurance company, insurance service, or insurance organization (including a health maintenance organization, as defined in paragraph (4)) which is licensed to engage in the business of insurance in a State and which is subject to State law which regulates insurance (within the meaning of section 514(b)(2) of the Employee Retirement Income Security Act of 1974), and includes a plan sponsor described in section 3(16)(B) of the Employee Retirement Income Security Act of 1974 in the case of a group health plan which is an employee welfare benefit plan (as defined in section 3(1) of such Act). Such term does not include a group health plan.

(4) HEALTH MAINTENANCE ORGANIZATION.—The term "health maintenance organization" means—

(A) a federally qualified health maintenance organization (as defined in section 1301(a) of the Public Health Service Act),

(B) an organization recognized under State law as a health maintenance organization, or

(C) a similar organization regulated under State law for solvency in the same manner and to the same extent as such a health maintenance organization.

(5) STATE.—The term "State" means each of the several States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

SEC. 04. SUNSET.

Sections 1 through 3 shall cease to be effective on September 30, 2001.

SEC. 05. Federal Employee Health Benefit Program. For the Federal Employee Health Benefit Program, sections 1 through 3 will take effect on October 1, 1997.

Mr. DOMENICI. Mr. President, first, I thank Senator WELLSTONE early on in the debate on this bill that is pending. He had the good sense to put the amendment in, and, thus, it became relevant under the unanimous-consent decree.

I thank him for his generosity in permitting me to call up his amendment, which is commonly known as the Domenici-Wellstone amendment. I am not going to take a lot of time. The U.S. Senate has heard me argue this issue a number of times.

I do believe in the 5 weeks that we have been gone—many of us at home—I think a lot of U.S. Senators and a lot of House Members have been approached in their respective States and districts with reference to the need to adopt this amendment and to make it part of the substantive law of this land.

I am counting on that, because I believe the U.S. Senate will adopt it by a rather overwhelming margin. But I do want to say to those who wonder whether or not we are just offering an amendment again that has passed and then did not see the full rising Sun and the beauty of daylight as a piece of legislation because the House had denied it in conference, that we clearly intend for the U.S. House to take a very serious look at this, even though it is in a conference and they have already passed the HUD and independent agencies bill.

I believe before this bill is finally conferenced that there will be many House Members on both sides of the aisle who will indicate their support. How we will go about doing that within the technical rules of the U.S. House, I am not prepared yet to discuss, but a number of House Members, both Republican and Democrat, want to help us get this amendment before the President as part of this appropriations bill.

Having said that, let me make sure that Senators and that those out in the audience, called America, whether it is families of severely mentally ill young people, or whether it is small businesses, or whether it is big businesses in the United States, this amendment is not the bill that passed that brought concern as to the cost to business. This is a very simple proposition.

This bill, let me make it clear, does not mandate mental health services or determine charges. It does not require parity for copayments and deductibles. It does not require parity for inpatient hospital stays or outpatient limits.

This amendment, as presented, does not cover substance abuse, and it does not cover chemical dependency. It excludes Medicare and Medicaid, to be handled separately in legislation with reference to those statutory benefits. It allows for managed care and mental health carve-outs, does not apply to individual health coverage, and exempts small businesses with 25 or fewer employees.

So I guess with that clearly understood, one might ask, what does it do? Essentially, this is a compromise to begin down the path of parity and nondiscrimination for the mentally ill people in this country who have health insurance. It does just two very fundamental things.

The aggregate lifetime coverage on an insurance policy and the annual payment limits, Mr. President, must be the same for mental health coverage as for the physical health coverage.

In simple terms, if heretofore you bought an insurance policy and it covered mental health, with whatever conditions are attached—normally down here well into the policy it would say the aggregate lifetime coverage is $50,000, and up here in the bolder print it might say the coverage for everybody in this policy, not otherwise provided for, is $1 million. So if you get sick from cancer or a heart condition or tuberculosis or, God forbid, any of the serious illnesses, the lifetime coverage is $1 million under that policy.

But if you get schizophrenia when you are 16 or 18, which is within the age, between 17 and 32 or so, you might get that dread mental disease, this policy that I was just alluding to that is out there now would say mental health is covered, mental illness, but it would say for that one, you only get $50,000 worth of aggregate lifetime coverage.

This Domenici-Wellstone amendment says that will not be legal anymore, for it says if you choose to write that policy or if you choose to buy coverage as a big company and you buy a $1 million aggregate coverage for your employees for their illnesses, then if you want to cover them for mental illness, you have to cover them lifetime for $1 million also.

And if the annual payment limit, for those are common also —you may have a $1 million aggregate for your lifetime, but it may only cover $50,000 a year as the annual, or $100,000—it says that figure, too, for the annual limits has to be the same for the coverage provided for mentally ill people as for others with physical ailments covered in an insurance policy.

Frankly, Mr. President, I say to my fellow Senators, from where we started, I will confess to everyone, this compromise truly—truly—dramatically reduced our expectations and our hopes. But we understand. We have dramatically reduced the scope.

We understand that the first bill that cleared the Senate with 68 votes required the same exact coverage for the mentally ill as you provide for anyone else, for other illnesses. And we understand there was a concern about that in terms of how much it might cost. There was some concern expressed about what kind of treatment is treatment of the mentally ill. Is it just an ordinary visit to a psychiatrist because

you have marital difficulties or because you have a very temporary kind of depression?

So what we decided to do was to scale back our desire and our hope for parity for this very important part of the American population and say let us get started by eliminating the hoax that exists in many cases where mentally ill people think they have coverage, but when you look at the fine print, the aggregate lifetime coverage is so small as compared to the coverage for other illnesses that, in many cases, it is a shock to those who have a family member who comes down with manic depression or severe depression or schizophrenia or one of the bipolar illnesses.

So we, to make it clear again, do not mandate the copayments. If you want to differentiate by having different copayments for mentally ill people and the coverage you provide, that is your privilege, that will be negotiated. That will be there in big companies as they work out how they are going to cover people. We do not mandate that parity to go down that far. We say just parity at the top, parity for the aggregate and parity for the aggregate annual.

We are starting down a path of at least beginning to understand that there are indeed millions of Americans who have members of their family with these dread diseases. Believe you me, the stereotype of old as to how these happen, where they come from, are all out the window. They did not come because a mother mistreated a child. They did not get schizophrenia because somebody neglected them for 10 years. These are very, very serious illnesses of the brain. Someday we will tie those down into very, very understandable physical treatments with medicines and other things which are already making dramatic, dramatic progress for this part of our population.

So we have a chance to just send a little ray of hope to the millions of American people, hundreds of thousands of families who have this kind of situation that heretofore your companies, if they are insuring you and your family through your employment, if they cover you for mental illness, then it will not be trivial coverage, it will not be a scaled-down coverage so insignificant that it hardly, hardly deserves being called coverage, because if you get schizophrenia or one of your children do or they get manic depression or they become seriously depressed where it becomes chronic for any period of time, anybody in this room knows those $50,000 lifetime limits do not cover it at all no more than they would cover for somebody who is desperately ill with cancer and needs 10 operations and chemotherapy and 6 months in the hospital. That $50,000 would be gone in 5 months or 3 months.

So we get a little bit of what we call parity. And we move just a little bit further away from the rampant discrimination that besets coverage for the mentally ill men, women, teenagers, young people across this land.

I repeat, when you vote for this tonight, many of you will have heard—many of the men and women in the Senate on their trips home and certainly many House Members in their districts will have heard from the Alliance for the Mentally Ill, thousands and thousands of their members. I have already run into two Senators who met their membership at home. And some were joking, I say to Senator WELLSTONE, because they seem to say your name right but they seem to say my name wrong. So they say you have to support that "Dominichi"-Wellstone bill. But that is all right just so long as we all understand what it is.

So Mr. President, at this point I am going to yield to Senator WELLSTONE. But I am wondering if we could get a time agreement to satisfy—we have a second-degree amendment being offered here. Before I agree to a time agreement, I want to see it. So I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I will be relatively brief because I know there are several other Senators who want to speak tonight. Senator KENNEDY has spent many of his years as a Senator fighting on behalf of parity and fairness for people struggling with mental illness, and others.

Mr. President, on April 18 of this year, 68 Senators voted for our amendment. This was really an amendment that said we ought to end the discrimination. There ought to be full parity for the treatment of mental illness in our country. I think what the Senate was saying—68 Senators, which is really a significant vote—was that for too long the stigma of mental illness has kept many in need from seeking help and for too long it has prevented policymakers from providing the help. We heard from a number of Senators who spoke in very personal terms about their own families and their own experiences—Senator CONRAD, Senator SIMPSON, and Senator DOMENICI.

Mr. President, their testimony was eloquent and powerful. But in addition I want to point out tonight that there are also very sound policy reasons for supporting this amendment. I will not describe our amendment. Senator DOMENICI has already done so. But I do want colleagues to know that it is just an incremental step forward, but a significant one.

What we are saying is that when it comes to lifetime caps and annual caps, at least have parity there so that we do not have a situation where there is a million-dollar cap for someone who is struggling with cancer or heart disease and then you find out that if someone is struggling with mental illness all together it is a $40,000 cap or an annual cap of only $10,000.

This amendment would really help many families in our country who right now, given the present arrangement, which is an arrangement of discrimination and stigma, just face economic catastrophe. People just go bankrupt. People go under all too often.

So, Mr. President, this amendment is incremental. It is not full parity, but it would be an enormous step forward. As I said, it is not just the personal stories. Certainly I could talk about this tonight in very personal terms. We have done that already. But there are sound policy reasons. The MIT Sloan School of Management reported in 1995 that clinical depression costs American business $28.8 billion in lost productivity and worker absenteeism.

In addition, there are too many people in prison who should not be. There are too many children who could be doing well in school who do not do well. There are too many families under tremendous strain that do not need to be under so much strain. I mean, in many ways we talk so much about the importance of supporting families.

If we could pass this amendment tonight with a huge vote, and then work hard and get the support in the House—and I think we will. Senator DOMENICI is right, so many families and so many people who have struggled with this have been active. One of the things that has changed through organizations like the National Alliance of the Mentally Ill and others is that people no longer will accept the idea that because they have to struggle with mental illness they are somehow women or men of less worth or less substance or less dignity. People are speaking up for themselves.

I think if we get a really strong vote tonight—and I think we will—I think you will see many of those families working hard with Members of the House and we will pass this. And we should, Mr. President. It would make an enormous difference.

I said to my colleague, Senator DOMENICI, and I have said to other friends as well, that the only thing that troubled me that evening—I will never forget; I was very proud to be a part of this—was that at the very end the expectations of all of the people that had just risen, the hopes would just be dashed and people would end up just being devastated and discouraged and feel like it all was for naught.

We did not make it on the insurance reform bill, but this is not just a symbolic exercise tonight. We are hoping to get a huge vote from Republicans and Democrats alike. I think we have the support for this. Then we are hoping that in conference committee this stays in and this becomes the law of

the land. It is not full parity, it is just incremental, but what a difference it would make. What a difference it would make for families that are struggling with mental illness. Mr. President, what a difference it would make.

I do not guess this is the most important reason, but what a difference it would make for all of the families that now are speaking for themselves and talking to Senators and talking to Representatives.

I see Senator CONRAD, and I talked about what the Senator said on the floor on April 18. I said I would never forget those words. I see he is here to speak. I do not want to cut into the time of others.

However, I think it is only old data and old ideas that have kept us from covering mental health the same way we cover other real illnesses, whether they are acute or chronic. Congress should pass this. The Senate should pass this amendment. We should pass it by a huge margin. It is a necessary and affordable step toward ending the stigma and discrimination against Americans suffering from mental illness.

Let me repeat one more time: This vote tonight, the larger the margin the better, will be a necessary and affordable step that we as Senators have taken toward ending the stigma of discrimination against Americans suffering from mental illness. Colleagues, Democrats and Republicans alike, to take that step is no small accomplishment.

I yield the floor.

Mr. KENNEDY. Mr. President, I ask unanimous consent that Sarah Vogelsberg, a fellow in my office, be given the privilege of the floor during the consideration of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, few forms of discrimination are crueler, more counterproductive, and more widespread than those inflicted on the mentally ill and their families. Lack of adequate insurance coverage for the severely mentally ill is a major factor leading to homelessness—and hopelessness. Illness is a tragedy for any family. Mental illness is a triple tragedy because the inevitable strain of coping with the illness is compounded by the unfair stigma associated with the illness and the lack of adequate insurance coverage to make treatment affordable.

Five million Americans suffer from serious mental illnesses every year. Few Americans do not have a family member, a friend, or a coworker, who has been touched by these tragic illnesses.

The financial burden of serious illness can be crushing, whether the illness is mental or physical, whether schizophrenia, heart disease, or cancer. For the majority of Americans, health insurance provides protection against the cost of treating heart disease, cancer, or other physical diseases, but this protection is shamefully less available for mental illnesses. There is no discrimination in insurance coverage against victims of heart disease or cancer, but there is vast discrimination against those afflicted with mental illness, and it is time for Congress to end it.

Every year, one in five Americans is afflicted by severe mental illness. Even mental illnesses that are less severe in the sense they are not chronic or do not have a clear biological basis can be devastating to individuals and families. Transient depression can lead to suicide. Mental health problems can result in divorce, child abuse, job loss, failure in school, delinquency, and substance abuse. The health costs of treating severe mental illness is $27 billion a year. The total cost of treating all mental illness is $70 billion a year.

Even these figures are far from reflecting the true cost of mental illness because such illnesses are often inappropriately treated in the health care system at a high cost with poor outcomes. It is estimated that adequate treatment for mental illness would save 10 percent of overall medical costs.

And these are only the direct costs. The indirect costs of severe mental illness—lost productivity, disability, and premature death—exceed $40 billion a year, and the indirect costs of all mental illnesses are far higher than that.

Mental illness is treatable and often curable. And treatments are becoming more effective every year. In fact, treatment for even very severe mental disorders is more effective than angioplasty, one of the most common treatments for heart disease.

Yet, insurance discrimination against mental illness is rampant, despite the fact that mental illness can be as devastating as any physical illness, despite the fact that good mental health care can actually save money, despite the heavy burden that mental illness places on millions of Americans and their families. Only about 11 percent of all employer-sponsored health plans cover treatment of mental illness as generously as treatment of other illnesses. Two-thirds of such plans place dollar limits on outpatient treatment. Eighty percent have more restrictive hospital coverage for mental illness.

Senator DOMENICI and Senator WELLSTONE offered a landmark amendment to end this injustice when the Kassebaum-Kennedy health insurance bill was considered by the Senate. Their full parity role made sense.

Five States have already adopted comparable laws. None has experienced significant cost increases as a result. If it works for Maryland, Minnesota, Maine, Rhode Island, and New Hampshire, it can work for the rest of the country.

Here is what the Governor of New Hampshire said:

> In the 2 years since I signed this bill, this has proven to be an affordable and effective piece of legislation. . . I urge you to pass similar health reform legislation on the national level.

The Governor of Minnesota said:

> Since the enactment of [our] law, there has not been a significant cost increase . . . I encourage you to support the Domenici-Wellstone amendment.

The Governor of Maine said:

> Our experience with serious mental illness has indicated that providing responsive and supportive coverage upfront . . . is not only the proper public policy, but also has positive economic impact with very little upfront costs for our State.

The Domenici-Wellstone amendment, as has been pointed out, was approved by the Senate by an overwhelming 68–30 bipartisan vote. President Bill Clinton urged that it be enacted into law. Unfortunately, it was dropped in the House-Senate conference because of the opposition of our House Republican conferees.

Now on this bill we have another chance to do the right thing. The pending amendment is a compromise—a worthwhile downpayment on this basic issue. Under the amendment, the annual dollar limit and lifetime dollar limit for mental health services covered by insurance could not be less than the limits set for other health services.

The amendment does not address many other special limits often imposed on mental health services, such as higher copayments, limits on outpatient visits, or limits on hospital days. Like the original amendment, it does not limit in any way legitimate cost containment steps to assure that care is necessary and effective.

The cost of this amendment is minimal. At most, it may lead to a rise of four-tenths of 1 percent in health insurance premiums, according to the Congressional Budget Office. Other analyses estimate the costs may even be lower. And none of these cost estimates take into account the savings that better mental health care will provide.

Opponents contend this proposal is an unjustified interference with the rights of employers. We heard the same objections to the minimum wage, to laws outlawing racial discrimination in employment, to the Americans With Disabilities Act, and to child labor laws. The opponents were wrong then, and they are wrong now.

Americans with mental illnesses and their families deserve a simple justice from employers, from the health insurance industry, and from their Government. This is the Congress that can begin to show the common sense, the compassion, and the basic fairness that the mentally ill and their families deserve. I urge the Senate to adopt this amendment.

I join in paying tribute to my two colleagues and friends, Senator DOMENICI and Senator WELLSTONE for their efforts. They have fought long and hard to make this amendment a reality. Every family that will ever have a loved one who will need mental health care is in their debt. I also want to mention Tipper Gore, the Vice-President's wife, who has done so much to increase understanding of the need to improve mental health coverage and has worked so hard for mental health parity. Finally, President Clinton's untiring efforts in this cause deserve special commendation.

I urge the Senate to adopt this amendment—and I urge the Senate conferees to hold firm this time, so that the House extremists will fail, and that this long overdue measure will go to the President for signature.

This amendment has a special meaning for me and my family. In 1963, the first Presidential message on mental illness in history was sent to the Congress by President Kennedy. This message resulted in the passage of the first program to establish community mental health centers and provide community-based services for the mentally ill. And I am proud that, as chairman of the Committee on Labor and Human Resources, I had the opportunity to send to the full Senate President Clinton's Health Security Program, providing for full parity and comprehensive coverage of mental health services for every American. I believe the day will yet come when we will enact a program that assures the basic human right to health care for every American, whatever their wealth—and whatever their illness.

Mr. President, this Senate owes a great sense of appreciation to our two colleagues for fighting for this modest but enormously significant and most important program. I hope it will be carried by an overwhelming margin.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. CONRAD. Mr. President, I want to join my colleague, Senator KENNEDY, in commending Senator DOMENICI and Senator WELLSTONE for offering this amendment.

The Senate has concerned itself with this issue several times in the past. Previously, when Senator DOMENICI and Senator WELLSTONE offered this amendment—a much broader amendment than this one—we got 68 votes on the floor of the U.S. Senate. In the reconciliation bill, I had this passed in the Finance Committee, and it passed on the floor of the Senate on reconciliation. So the Senate has considered a much broader version of mental health parity than we are considering tonight. This only relates to parity on lifetime and annual caps for mental illness. It is a small part of the parity provision that previously passed with an overwhelming vote on the floor of the U.S. Senate.

Now, Mr. President, this is a beginning. It is an important beginning, and we ought to make the start. It is the right thing to do. We ought to treat a mental illness in the same way that we treat a physical illness.

Mr. President, the last time I spoke on this matter before my colleagues, I talked about an experience I had when I was the assistant tax commissioner in the State of North Dakota. We had a receptionist who was struck by a mental illness. I recounted her case. I don't want to take the time of my colleagues tonight to repeat the specifics of that matter, but I will simply say that she was a young, vibrant woman, who one day was healthy—perfectly healthy, radiantly healthy—and the next day she thought the pictures on the walls were talking to her. Her life was badly damaged. In fact, she ultimately tried to take her own life.

Mr. President, it was in dealing with that case that I learned that, in this country, insurance policies frequently discriminate against those with mental illness. And it is a very serious matter, this matter of discrimination, because if you are so unfortunate as to have a loved one or a family member or, God forbid, you yourself are stricken, you will quickly find out that the coverage in most policies is dramatically different for a mental illness than a physical illness.

For example, annual caps, typically, for mental illness are $10,000 a year. For physical illness they are $100,000 or $250,000 a year, which is a dramatic difference. Believe me, if you are part of a family that has this awful thing happen to you, and you are up against those kinds of limits, you will find out very quickly that this can drain your family's finances. This can be devastating, not only in terms of the personal tragedy, but in terms of the financial tragedy that follows, as well.

Mr. President, this is a modest proposal. According to CBO, on average, this would increase health insurance premiums by .16 percent, not 16 percent, not 1.6 percent, but .16 percent.

Mr. President, this is the right thing to do. We ought to take this step. I hope my colleagues will join in on a bipartisan basis in passing the Domenici-Wellstone amendment. I thank the Chair and yield the floor.

Mr. SIMPSON. Mr. President, I am very proud to be a cosponsor of the Domenici-Wellstone amendment, which provides for just a small measure of mental health "parity." I am also a cosponsor of the freestanding bill, S. 2031, the Mental Health Parity Act of 1996, which was introduced on August 2. I am—and will remain—deeply committed to this cause. I sincerely believe that the manner in which we address this singular issue will speak volumes about the true nature of the 104th Congress.

I want to emphasize as clearly as I can that this amendment does not ask for anything grand or far reaching. It would merely require health plans to provide parity with respect to lifetime caps and annual payment limits. In other words, if an existing health plan has a lifetime cap or an annual limit on what it will spend for medical or surgical services, that plan must either include services for mental illness in that total or have a separate ceiling for mental illnesses that is no more restrictive than the ceiling for medical and surgical services.

This very limited proposal would apply only in these two areas—for lifetime caps and for annual payment limits. It would not require "parity" for copayments or deductibles or any other aspects of health coverage.

Considering that the Senate has previously voted—on April 18, by a margin of 68 to 30—for an amendment that would have required a much more sweeping version of mental health "parity," it surely seems to me that the pending amendment—which is so very limited in scope—should pass by an even larger vote. I would look forward to that.

But those of us who have been involved in this cause have learned not to take a thing for granted. Even if we are to win this vote, we know that we will confront myriad further roadblocks as this measure works its way though the legislative process in the remaining weeks of this session.

I still have a bit of a hollow feeling about our failure to include this reasonable compromise in the health insurance reform bill. In a bill that was so packed full of "mandates"—which is exactly what the health insurance bill consisted of—somehow this mental health provision was singled out as some terrible mandate that would "cost too much."

As much as I don't want to believe this, my gut instincts tell me that this outcome most surely had something to do with discrimination against the mentally ill. This Congress should not make this mistake a second time. I urge my colleagues to support the pending amendment.

Mr. BROWN addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. BROWN. Mr. President, I rise with a heavy heart to address this subject. I say heavy heart because no one could fail to be moved by the very eloquent statements that the distinguished Senator from New Mexico has made on this floor concerning this problem, both now and in the past. He has brought to light the problem that, I think, affects many Americans and has focused our attention on a very difficult aspect of the current health care policy.

On the major tenet that suggests that there are differences in coverage

in this area, I must say, the Senator is exactly right. That certainly conforms with my understanding. There are differences in coverage with regard to mental health. He has eloquently put the case that many of the citizens who suffer from these infirmities suffer tremendous consequences because of the lack of insurance coverage in that area. I think he has done an excellent job in articulating the difficulties visited upon their families, not only because of the illness, but because of the nuances in the insurance policies.

Why would one rise to voice concerns? It is simply this, Mr. President. As this body requires coverage, or in this case sets limitations, fixes limitations, what we also do is not only help people out who are on the receiving end, but we establish the precedent that it is for the Government to decide what kind of coverage you purchase, not the person who is paying for it.

Mr. President, let us be very specific. If this amendment passes, consumers will be denied the right to pick the terms of coverage, or negotiate the terms of coverage they wish with an insurance company. We will have had the Government make that decision and not the consumers. Now, I put it to Senators that it is important for consumers to have choices. I must say that I think it is commendable that the Senators' underlying amendment does not mandate the mental health coverage. It still leaves that open. I do hear—and I think he and others have acknowledged it—that it may have a tendency to have people drop mental health coverage from their policies, if this passes in its present form.

What we do if we pass this is say that consumers are no longer allowed to make a choice as to the limitations on the mental health coverage that they purchase. What we are saying is, you are going to have to buy a policy that will conform with these guidelines, even though you don't want to. Now, Mr. President, I believe that consumers ought to retain that choice. I believe it is fair to require people to offer coverage, with the commensurate costs that it may involve, but I don't think it is appropriate for us to take that decision away from consumers. Thus, Mr. President, I do rise with an amendment that I think clarifies the issue.

AMENDMENT NO. 5195 TO AMENDMENT NO. 5194

Mr. BROWN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Colorado [Mr. BROWN] proposes an amendment numbered 5195 to amendment No. 5194.

At the appropriate place in the amendment, insert the following:

Notwithstanding the provisions of this title, consumers shall retain the freedoms to choose a group health plan with coverage limitations of their choice, even if such coverage limitations for mental health services are inconsistent with section 2 of this title.

Mr. BROWN. Mr. President, the amendment is very simple and it is very direct. It simply retains the matter of choice in the consumer. If you think the consumer ought to be able to purchase the protection that they wish, you will want to vote for this amendment because it makes it clear that consumers can end up making that choice themselves. If you wish to deny the consumer the right to purchase the coverage that they prefer, you will want to vote against the amendment.

Mr. President, I think underlying this is a very important principle. Should we force people to buy coverage they do not want to buy? There are good arguments on both sides, incidentally. I will certainly concede that. I will concede that the case the distinguished Senator from New Mexico brings for his amendment is one of the most heart-rending and eloquent presentations I have ever listened to.

So, Mr. President, I also believe it is important in this land of freedom to retain freedom of choice for consumers. Thus, I offer my amendment here on the floor.

Mr. DOMENICI. Mr. President, I do not know if there are any other Senators who want to speak in behalf of the Domenici-Wellstone, et al., amendment. I understand the Chair would like to speak. I will personally relieve him shortly so he can speak. But let me make a comment about the Brown amendment, after which I will move to table it once Senators who want to speak have had an opportunity to do so.

Let me just make a case here. Fellow Senators, we just passed a Kassebaum-Kennedy health reform bill. What did we say in it with reference to preexisting conditions? We said insurance companies can no longer deny coverage because of preexisting conditions. We could have had a distinguished Senator like the Senator from Colorado—and he is distinguished—come to the floor and say, "But we ought to have the consumers retain the right to choose." So we could offer an amendment here that would have said it. But we need to protect the consumers' choice.

So we are saying you have to do this; you have to cover the preexisting conditions, but the consumer ought to have the choice, and he ought to be able to opt out. You see what that did. Nobody dared do it—not even my distinguished friend from Colorado—because that produced what we all call cherry picking. It permits people to offer coverage at the lowest possible rate denying coverage to many, many people and leaving those to somebody else.

I cited here on the floor where cherry picking came from. I thought it came from the basketball player where, when the fellow didn't want to get into the game of getting rebounds, he stood out on the side over there and let the other people do all the work. And he would run down, and they throw him the ball, and he would get to cherry pick the basket.

What the Senator is doing here in this amendment, which sounds great, is he is taking a provision that we are offering that says simply the following: If an insurance company chooses to cover mental health—let me repeat; if they choose to cover mental health. Implicitly they do not have to cover mental health. I would assume they will offer policies without coverage for mental health. I assume that exists today. It will exist tomorrow. It will exist a year from now if this becomes law. Companies will offer policies with no mental health coverage, and that is available for those consumers who want to choose that. But it will also offer mental health coverage. All we are saying is, if you choose to offer that coverage, then you must offer two things—only two things: The annual amount to be paid for the illness and treatment must be the same for physical as for severe or mental illness. You can't have two different annual payments. As to the lifetime aggregate coverage, you cannot have two different ones, if you cover mental health.

So, in a sense, I say to my fellow Senators, this choice is already provided for because insurance companies are going to provide ample choice. They are going to say we are not covering mental health. Would you like to buy that kind of policy? We are only saying if they choose to cover mental health that these two characteristics, qualities, must be present.

If the Senator chooses to say, for those companies that choose to write insurance policies that have mental health and, therefore, have this kind of coverage, people ought to be able to say, "I opt out of a portion of it." Then I submit we are right back where we started where we do not have coverage for the mentally ill because people who do not have any problems will opt out of it, and there will not be coverage under even those cases where policies have it expressly because the decision has been made—because the decision has been made—to include it.

So from my standpoint, I will very soon move to table this. I say to everyone that I think, if it were adopted and implemented literally, I believe we will have done away with the kind of coverage we seek to provide within the confines of a policy that the offset chooses—coverage for mental illness.

I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Very briefly, I say openly that I could go through in a

kind of logical way all of the specifics of it. But I believe the amendment of my good friend from Colorado guts this amendment in the second degree. I think what he most objects to is the idea of any kind of standard. We just voted on a standard. That is what we just did. That is the vote we just took. It was 98 votes where we said, "Look, when it comes to the whole issue of the mother-child, we want to make sure there is at least a 48-hour period of time." That is what we just did. We are now saying in a very incremental way that when it comes to the mental health area we ought to deal with this discrimination and we ought to make sure that, at least with the lifetime or annual caps, you have some parity. If you begin to say, "I am all for the plans, but I do not want to have a situation where in fact there has to be in mental health coverage an equality with caps," then you move away from the whole strength of this.

So this is the opposite of the perfecting amendment. This amendment guts this legislation. I hope that it will be defeated resoundingly.

Mr. BROWN addressed the Chair.

The PRESIDING OFFICER (Mr. DOMENICI). The Senator from Colorado.

Mr. BROWN. Mr. President, if I could, I would like to address the comments of the two previous speakers.

With all respect to my good friend from Minnesota, let me suggest that the vote we just had, at least in my view, is not quite the same as he implied. The record vote we just had was on the Frist amendment that perfected the Bradley amendment. I voted for that because it did improve the Bradley amendment. I certainly would confess to the Senator with regard to the underlying Bradley amendment that there are significant similarities, and I think he makes a valid point there. One difference, I might point out, is the cost differential for that very modest step, first, I might say, which is something that I hope would be in all policies, which is dramatically different than what I believe the cost impact with regard to the mental health coverage is.

Second, Mr. President, with regard to the statement of the distinguished Senator from New Mexico with regard to his point in regard to choice being still present, if his amendment passes, I think that is a valid point if either choice is retained. Unfortunately, the choice, though, as to whether or not you have any mental coverage, if you do not want to go with the higher limit, you have to drop all coverage, this amendment would make it clear that you retain the choice as to the level of coverage. I think that is the crux of it.

Why is that significant? It may be possible to afford 10,000 dollars' worth of coverage, or 100,000 dollars' worth of coverage, or 1 million dollars' worth of coverage. But it may not be possible to pay for $10 million of coverage. Does that mean, if you can't go with the higher level, that you are not allowed to have any choice at all? Unless the Brown amendment passes, the second-degree amendment, that is exactly what it means. If the Brown amendment passes, it means that you are allowed to have choices as to the coverage levels you may wish for mental health.

It seems to me that is fundamentally a question of choice and an important part of it. And it is vital for our consumers to retain that option.

I yield the floor.

Mr. BENNETT addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. I have listened to this debate with great interest. I find myself philosophically agreeing with the Senator from Colorado about the issue of choice, but I intend to oppose his amendment because it ignores the reality of our current health care structure and raises an issue that I have raised before and will raise again and again and again as we deal with the health care circumstance.

He uses in his amendment the word "consumers." The fact is that consumers do not buy health insurance. Individual consumers do not buy health insurance except in very rare cases. Companies buy health insurance. Employers buy health insurance.

In my view, that is one of the main things that is wrong with our health care system, that individual consumers are not allowed choice. We are forced to take whatever our employers decide to choose on our behalf.

I have said on this floor before I had a better health care plan before I came to the Senate than I have now. Why? Because the employer for whom I worked did a better job from my point of view than the U.S. Government does in choosing plans. If I were an individual consumer buying health care the way I buy an automobile, I would have chosen to bring that health care plan with me when I came from one employer to the other employer. But because of the way our health care system is structured, we are not allowed to do that. We, as individual consumers, are not allowed to make those kinds of choices. So let us understand that when the Senator from Colorado talks about consumers making choices, he is using the language of the marketplace that simply does not apply in health care.

We had a long battle on this floor for many weeks over the idea of allowing individuals to set up savings accounts from which they could purchase health services. We finally had a compromise saying that we would only allow 750,000 people to do that. If we cannot find a more dramatic statement than that fact that underlies that consumers, that is, individuals, are not allowed to make these kinds of decisions, then I do not know where we would find a more dramatic statement.

I would like in coming Congresses to restructure the system around medical savings accounts and around consumer choice. I think that is the ultimate solution, and if we get to that point, then I think we can consider the amendment of the Senator from Colorado. But when we are stuck with the circumstance we are stuck with now where decisions are made by somebody other than individuals, I think the amendment of the Senator from New Mexico is an appropriate one, and I intend to oppose the second-degree amendment and support the amendment of the Senator from New Mexico.

Mr. BROWN. Will the Senator yield for a question?

Mr. BENNETT. I would be happy to yield for a question.

Mr. BROWN. It is my understanding the Senator has favored letting employers give employees choices. Would I be fair and accurate in saying that, if the DOMENICI amendment passes, it would preclude employers offering, making available to their employees a choice as to the various levels of mental health coverage if they differ?

Mr. BENNETT. It is my understanding, in response to the Senator's question, that an employer would not be precluded from offering whatever he wanted. From my own experience as an employer, let me describe to the Senator what we offered to our employees. Under the cafeteria plan proposal, we say to our employees that we have x number of benefit dollars. You tell us how you want us to spend them on your behalf. And under a cafeteria plan approach—a 125(c) plan, I think it is described in the Tax Code—an employer could say, here is a mental health care plan of x amount of coverage. Here is a mental health care plan of y amount of coverage. Here is a mental health care plan of z amount of coverage. And here is a physical health care plan of x amount of coverage, and you get to pick.

The employee under those circumstances could say, "I want $10,000 of coverage in mental health care under this plan, and as a second option, I want a plan that has $1 million worth of physical coverage."

Yes, I get, in effect, the same thing the Senator is talking about, but I have to buy two plans to do it and there is nothing in the current law or nothing in the Domenici-Wellstone amendment that would prevent an employer from offering that kind of circumstance.

Mr. BROWN. To follow up, if I may, my understanding of the reading of the Domenici amendment is that he does exempt from these limitations restrictions to small employers. That, I think, is a commendable aspect of his

amendment. But I do not see an amendment that provides the exemption that the Senator just talked about. As a matter of fact, the way I read the amendment—and perhaps the Senator will want to clarify it or set me straight on it—the way I read it, it says precisely that you cannot do what the Senator describes, that you cannot have a plan that has $1 million for physical coverage and $100,000 for mental health coverage.

Mr. BENNETT. You cannot have a single plan that has that discrimination, but if under a 125(c) cafeteria plan you say we are going to offer separate plans and you buy both, you could get that effect if the employee made that kind of choice.

Mr. BROWN. I appreciate the Senator making that point. I think it is a very important point, that you do retain that option at least in the cafeteria plan.

Mr. BENNETT. That is right. An employer who does not have a cafeteria plan would not face that option. But if by passage of this we encourage employers to move to a 125(c) plan, a cafeteria plan, I think that is all to the good. My underlying point is that the consumer does not make these choices, which I think is wrong and needs to be changed at some point when we restructure our health care system.

Mr. BROWN. If the Senator would permit me another.

Mr. BENNETT. Surely.

Mr. BROWN. It is this Senator's view that the option that the Senator just described for the employer about the cafeteria plan, which I think is an important option, is the option that ought to be preserved for other consumers who do not fit in the small employer option.

Mr. BENNETT. I agree with the Senator, but I do not think this legislation is the place in which to do it.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER (Mr. BENNETT). The Senator from Texas.

Mr. GRAMM. Mr. President, what we have before us is a very bad amendment with very good intentions. What this amendment in essence is saying is that we in the Senate know better than employers and workers what kind of health insurance coverage they need.

This amendment overrides the decision making of those workers who are affected by this amendment, and a very large portion of the population of the country will be affected.

We are going to say to them that we know better. You may think that you want different limits for traditional physical health insurance than mental health coverage, but we know better than you and are going to make you buy the coverage with increased mental health limits. The incredible paradox is that the only way you can escape this is to drop mental health coverage altogether.

This is an unfunded mandate. If we had a proposal before us tonight to raise taxes to provide this benefit, I doubt it would get 30 votes. But what we have is a proposal tonight where "Big Brother" Congress, know-it-all Congress, perfect-insight Congress, is going to say that even if you are a young worker and are having trouble buying health insurance and remaining competitive in the job market, we are going to force you to balloon your mental health coverage, as commendable as that might be.

How wonderful it would be if everybody in America could afford this coverage. But what we are saying is, if you have any mental coverage in your plan, we are going to make you pay for a coverage limit up to the amount you have for traditional physical ailments. In the process we are going to drive up the cost of health insurance. We are going to reduce the choices that people have. The Senator from Colorado is saying if you want to mandate that insurance companies offer the coverage, then do it, but do not make people buy it if they do not want it.

I would like to remind my colleagues—none of whom are having difficulty buying health insurance—that even though this may sound great from our point of view, the problem with private health insurance is young working couples are having trouble paying for the health insurance they have. And, to the extent that this bill drives up the cost of hiring people, it will cost people their jobs, it will force companies who cannot afford to provide this benefit to eliminate all mental health coverage, and it will force working families to do without, because every penny that goes towards health insurance comes right out of the pocket of the worker. Every economic study done, including studies by the administration, count fringe benefits as part of the wage package. What we are doing to young couples who are trying to make ends meet, who want health insurance in case Johnny falls down the steps, is saying that you are going to have to pay for this extensive mental health coverage whether you want it or not. This amendment says that Congress supposedly knows what is better for you than you yourself do—it assumes that Congress is capable of making better decisions.

I totally and absolutely reject this. We adopted an amendment similar to this, but we adopted it when the majority leader, Senator Dole, made it clear that we were never going to see it emerge from conference—yet we ended up in conference with serious negotiations about really doing this.

I, frankly, think it is outrageous that, on an appropriations bill, we are getting ready to mandate that working people and businesses provide a benefit, whether they want it or not; that they pay for it, whether they want it or not; and we are doing exactly what the American people are continually outraged about: injecting our value judgments over theirs. We are saying that we know better than you know—that you really need this expanded mental health coverage, even if you do not want it and even if you can not afford it.

The point is, mental health care may be a wonderful thing. If we could snap our fingers and have everybody in America covered, it would be great. The truth, however, is that we cannot. This is expensive coverage. It is not an accident that private health insurance policies normally have differentials. In fact, in many cases, people do not have mental health coverage.

We have not had a tremendous amount of experience with mental health coverage under a third party payment system, where the insurance company is paying for it. I know we can get into a lengthy debate about experience of various States. I have seen estimates as high as 15-percent increase, if you force people to pay for mental care for alcohol and drug rehabilitation. I do not know how to pull that apart. But the point is, whatever the costs, how dare we, in the freest society in the history of the world, attempt to play God by telling people what kind of health insurance they must have.

I think the amendment that has been offered by the Senator from New Mexico is perfectly reasonable—more than reasonable. It simply says to insurance companies: You do not really live in a free society, you can not decide what product you want to sell, instead we are going to mandate that you sell this policy. Indeed, we are going to use the police power of the State to make you sell this policy. But, at least the Senator from Colorado says: We are not going to force young working couples, whose jobs might be threatened, whose ability to afford physical health insurance might be threatened—we are not going to make them buy it.

It seems to me that is the issue. In terms of somehow relating this to medical savings accounts, that is the most contorted logic I have ever heard in my life. The point of medical savings accounts is that, under the current tax law, if you buy low-deductible insurance it is tax free. But if you buy high-deductible insurance and you put the difference in a savings account, then you have to pay taxes on that difference. In essence, we are making people, through the Tax Code, buy low-deductible insurance. We are putting people in a position where, when they are buying health care, it is like going to the grocery store and having a grocery insurance policy, where 95 percent of what you put in your grocery basket is going to be paid for by grocery insurance. Needless to say, if you had such a policy, you would eat differently, and

so would your dog—this is part of the problem.

What medical savings accounts do is expand choices. What the Domenici amendment does is limits choices. What gives us the right to say that people should be forced to buy health insurance that provides coverage which they otherwise would not choose to buy? Who are we to say that we have made this value judgment, that mental health care and physical health care are equal? Furthermore, who are we to say that if you have a policy which has a certain limit on physical care, and if you have any element of mental care in that policy, you are going to be forced to have the same limits on mental health care as well?

Let me tell you what this amendment would do. This amendment would drive up the cost of health insurance, it would drive up payroll costs, it would increase the cost of employing workers, and, therefore, people would lose their jobs.

Some courageous Members were willing to stand up and be counted upon on the issue of the minimum wage. How is this issue any different? How is this at all different? The plain truth is, this is not different. What this amendment would do is impose an unfunded mandate on workers and businesses. This will drive up unemployment. It will limit freedom. It will drive up the cost of health care. It will reduce the number of people who are covered by health insurance. And, finally, in the most perverted provision of this amendment, it will induce people to drop mental health coverage rather than face these expanded limits.

So, I know we have danced around this issue before. I know that, in a form people thought would go to conference and die there, we have voted on this before. I was proud to vote against it then and I am going to be proud to vote against it now. I think the Brown amendment is an amendment that makes the underlying amendment dramatically better. Because what the Brown amendment says, in its simplest form, is people have to offer this coverage for sale, but you do not have to buy it.

If you believe in freedom, if you believe in the right of people to choose you will vote for the Brown amendment. I would remind my colleagues who talked about lack of choice—there is a choice. If you do not like the health insurance your employer is providing, you do have an option. We do not have indentured labor in this country. We do not allow the enforcement of indentured labor contracts. People have a right to change jobs, and in fact people change jobs every day because of health insurance, because they want it and they want to expand their freedom.

This is an amendment that limits freedom. This is an amendment that is an unfunded mandate of the worst sort. This is an amendment which has the Congress choosing for consumers, choosing for their employers, and I think it is absolutely wrong. I strongly oppose the underlying amendment and I strongly support the Brown amendment, which simply tries to preserve consumer choice.

I would think that the authors of the underlying amendment would accept the Brown amendment because all the Brown amendment says is that, while the insurance coverage has to be offered, if the consumer does not want it, cannot afford it, feels it threatens his or her job, or if it threatens the viability of the company, you do not have to buy it. You either believe in freedom or you do not.

If you believe in freedom, you are not for the Domenici amendment. If you believe in freedom, you are for the Brown amendment. Those are strong words but they are words that exactly fit the case before us.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I have heard the distinguished Senator categorize the words of my good friend, the occupant of the chair, as "preposterous," or what was it you chose to say, Senator? I think that is probably a good paraphrase.

Let me suggest the entire debate by the Senator from Texas has been preposterous. First, it is wrong on the facts; and, second, it is wrong on the logic; and, third, it is a gross exaggeration if ever I have heard one. So, let me tell you the facts. And the Senator might do well to listen, because they are the facts.

Mr. GRAMM. I will listen.

Mr. DOMENICI. And I appreciate it, if you will.

First of all, the only way we have been able to judge the cost of these various insurance changes is to get the Congressional Budget Office to tell us. Let me tell you what they said about this amendment. Sixteen one-hundredths of 1 percent possible increase. Sixteen hundredths of 1 percent possible increase. Caveat, they said—caveat, we are not taking into consideration that it will probably be substantially less, if we know the effect of managed care and HMO's.

Would anybody gather from the argument of the distinguished Senator from Texas that we are talking about that? Let me convert it to an insurance policy's average costs: $6 to $8 a year. That is the choice between freedom and servitude, $6 a year, or $8.

That is freedom from being in jail or being forced to be indentured—$6 or $8 a year.

Let me talk about eliminating choice. I just asked what the conference report on the Kassebaum-Kennedy bill passed by, how many votes. I looked and found my good friend, the Senator from Texas, voted for that. Though I might suggest to him—and I am his good friend—when he makes an argument I do not agree with, I make it as forcible as he, perhaps not as intellectually as he.

Having said that, I noted he voted for that bill. Mr. President, if ever you wanted to make an argument about eliminating freedom of choice, that was the bill to do it on, because you no longer have any choice to say, "I don't want to buy insurance that covers the preexisting condition of my neighbor." Right? You say, "I want another insurance policy, because I want the right to choose between coverage of preexisting conditions or not."

Let me suggest, if there are degrees of freedom, you just waive freedom there in an astronomical way, and if you are losing some freedom here, you are losing it in a little, tiny, almost immeasurable quantity.

So let me repeat to the U.S. Senate what this issue is about. This issue is about whether or not you want to take a little tiny step toward providing some kind of parity of treatment under insurance policies in this land to those who suffer mental illness.

Let me tell you what it does not do. It does not require the kind of coverage, the amount of copayment, the deductibles. Those are all left up to the insurance companies. All it says, I say to my friend from Kentucky, is if you write an insurance policy that covers mental illness, then write it for the aggregate coverage level that is identical to the coverage level for physical illnesses. Is that a monumental thing? Most policies aggregate between $500,000 and $1 million. That is what you are saying: If you write one with mental illness, do not put one in at $50,000 and cancel at $1 million. Just put 1 million dollars' worth of coverage.

I repeat, this is not a huge imposition of new costs on anyone. My friend from Texas says there is no experience with the coverage of mental illness. That is absolutely wrong. There is plenty of experience with the coverage of mental illness. There are all kind of insurance policies out there with coverage of mental illness without discrimination on the aggregate amount. Many companies already know what it will cost, and they know what it will save.

All we are suggesting is that there are a few million American families out there who think they have insurance coverage, and they find that their 17-year-old daughter away at college got depression in her freshman year—could not make a choice, all of a sudden could not sleep, all of a sudden gets deathly sick, and all of a sudden the doctors say she has severe depression.

All of a sudden they say, "Well, we have insurance." They wake up and

ask somebody. Surely, if the father of the house had a heart attack, he can stay in a hospital 6 weeks. He can get 300,000 dollars' worth of surgery. But for that daughter, if you look at the policy, and it probably said $50,000. And they thought they had insurance. If you have severe depression and get hospitalized and then have to have the treatment that follows it, $50,000 is not even going to begin to care for them, just like $50,000 will not touch bypass surgery and all of the rehabilitation that comes with it, or severe cancer with six operations and chemotherapy.

That is all we are saying. If you are going to write an insurance policy, insurance industry of America, businesses in America, if you are going to cover your employees and you are going to cover physical ailments and mental illness, just make sure that the aggregate amount is the same.

That is not making any huge, momentous decision for the populace of the United States. It is a very simple, forthright, practical approach to insurance coverage.

As a matter of fact, the only reason they are writing it out of the policies now and writing it lower is because it is cheaper. When people start finding out and asking about it and wanting it, then they will cover them, but in many instances, it is already too late. But if you make it that they must have these aggregates in all of the policies, I repeat, the denial of freedom is so insignificant and the cost is so insignificant that it is a trivialization, it trivializes the use of the words "denying freedom of choice." It is truly turning monumental words that we cherish and worry about, like "freedom," and attaching those to something as insignificant as what we have just described here on the floor.

Mr. President, I move to table the Brown-Gramm amendment and ask for the yeas and nays.

Mr. GRAMM. I ask the Senator to withhold so that I might respond.

Mr. DOMENICI. How much time would you like?

Mr. GRAMM. I want time to respond, or I can suggest the absence of a quorum.

The PRESIDING OFFICER. Does the Senator from New Mexico withhold?

Mr. DOMENICI. I will let the Senator respond.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, every Member of the Senate voted for the Kassebaum-Kennedy bill. I stood on the floor and made it very clear that by moving toward community rating, we were driving up health insurance costs.

What I wanted was medical savings accounts as a method to promote competition and empower the consumer to make rational choices. Like most bills, it represented a tradeoff: an expansion of freedom in one area, a reduction of it in another. I see no expansion of freedom here.

No. 2. If this provision really costs one-sixth of 1 percent, why isn't it a matter of course in insurance policies? If this provision is so cheap and so good, why is it not provided?

I will offer another amendment saying that if, under this provision, the cost of insurance rises more than 1 percent that this provision will be void, and we will see if that will be supported.

Everyone who has ever argued that we should diminish freedom to promote a political objective has said that the political objective is big and the diminution of freedom is small. The point remains and is irrefutable that under this amendment, we are going to make you buy coverage that you may not want. We are going to make employers provide coverage that they may not be able to pay for unless they drop mental health coverage altogether. I believe that this is clearly a step in the wrong direction.

Obviously, any of us can stand up and talk about things that any family would like to have. Wouldn't any family in America like to have comprehensive mental health care when a 17-year-old child in college comes down with severe depression? Obviously, they would. But there are also a lot of families who would like to have a 17-year-old in college.

There are a lot of people who would like to have better jobs than they have. The point is, life is about choices. Life is about choices that we have to make in a free society.

Senator BROWN says that we can require insurance companies to offer the policy. But the Domenici amendment says you also have to buy the policy.

You have to buy this coverage whether or not you want it, whether or not you can afford it, and whether or not it threatens your job or your company. Why? Because we, the Congress, in our infinite wisdom, have decided that this is something you need to have.

It seems to me, if there was just one clear message in the last election, it was stop making decisions for us in Washington, let us make decisions for ourselves.

If this policy really cost one-sixth of 1 percent, then let people choose to buy it, let companies decide to offer it. I do not believe it will cost one-sixth of 1 percent. I believe we are talking about a very expensive rider to insurance policies.

I think that this rider is going to drive up the cost of health insurance and, in effect, deny people who are having trouble buying insurance the ability to cover themselves or their child should he or she fall down, break an arm, or, God forbid, be in an accident. We are going to jeopardize their ability to have any health insurance at all. Further, we are going to jeopardize their ability to have a job, and are going to induce many companies to drop health coverage altogether. Soon people will find out that if they have a child that has a mental problem, they will not even have $50,000 of coverage, let alone coverage equal to the rest of their policy.

The point is this, if this is so cheap, if this is so irrelevant from the point of view of cost, why not let people choose it on their own? Or better yet, why not have the insurance company be required to provide it and then let people decide if they want it based on their analysis of cost and benefits? Or are they so foolish, are the American people so naive, so unaware of their own needs and their own wants that they must have us tell them what they need? I do not think so.

It seems to me that the Brown amendment has the saving grace of letting people choose. You force the insurance companies to offer this coverage whether they want to offer it or not, but at least you let people decide if they want it. I cannot understand, for the life of me, why people are opposed to this. If really this coverage costs one-sixth of 1 percent, we would all want it; we would all choose it. The only reason you would not let people choose it on their own is if you do not believe that one-sixth of one percent number, or you believe that people would not choose it. The point is, freedom is the right to make wrong decisions as well as to make right decisions. I simply go back to a fundamental point which, in my opinion, despite all the wonderful speeches you can give about this—Bismarck once said, "Never does a socialist stand on stronger ground than when he argues for the best principles of health."

Who can stand and argue against somebody having coverage for a physical or mental ailment? No one can. We all want it. We wish we could magically make it happen. But we should not make it magically happen by mandating that people have it, by forcing people to pay for it whether they want to or not, without knowing what it costs, without knowing the ramifications of this, all on an appropriations bill at 7:30 p.m. at night in the month that we are going to adjourn the Senate.

I think that this amendment violates everything that many of us claim that we stand for. I do not doubt the good intentions, nor have I ever doubted the good intentions, of the Senator who is offering this amendment. But this is bad public policy. It flies in the face of everything the 1994 election said because it denies people the right to choose.

If we want to preserve this right to choose, not for the insurance companies, but for the consumer, then it is critical that the Brown amendment be adopted.

I yield the floor.

Mr. BROWN addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. BROWN. Mr. President, I shall not prolong the debate. We have had excellent comments by both sides. I appreciate the very thoughtful comments that Senator DOMENICI has made and Senator GRAMM has made because I think they enlighten debate.

I hope Members, when they vote on this, will do one thing: look at the amendment and read it. And let me just read the words because I think they are important to focus on. Here are the words of this amendment:

Consumers shall retain the freedom to choose a group health care plan with coverage limitations of their choice even if such coverage limitations for mental health services are inconsistent with section 2 of this title.

Mr. President, that is all this amendment does. It retains, in the consumer, the right to choose.

I yield the floor, Mr. President.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I believe we have had debate on this. I just want to, one more time, suggest that what is missing from the Senator from Texas' discussion is—I would put it this way—there was total misunderstanding as I listened to him talk about severe mental illness and the marketplace and the neighborhoods of America. Because that illness has been so stigmatized for so long, it has even stigmatized the insurance policies of this land.

We started out 30 or 40 years ago recognizing that we came out of the Dark Ages with reference to severe mental illness and crazies and loonies, and we started understanding that people really were sick. Yet, we dragged everybody kicking and screaming to understand that a mother or a father with a child with schizophrenia had nothing whatsoever to do by way of treatment or care with that child getting sick.

Pretty soon we got to recognize that even that famous old Dr. Freud was wacko because you could not talk people out of mental illness. You can have them on the sofa and chair and talk until you are blue in the face, and if you are a schizophrenic, you are sick. What happened is, society just resisted that. And I guess part of it is that every now and then somebody who is mentally sick kills someone and there we are again talking about "those people."

But let me tell you, there are millions of Americans who have members of their family with one of these dread illnesses. All we are suggesting in this measure, and I repeat, if an insurance company writes insurance that covers mental illness—now if you want choice, understand, they do not have to cover mental illness—but if they choose to, we just say, let us get rid of the stigma and cover them in total dollar coverage to the same extent you cover the other illnesses.

If they want to triple the copayment, I say to Senator KENNEDY, because they want to keep people away from psychiatrists, there is nothing in this measure that says they cannot do that. We are just saying, when you insure somebody that is mentally ill, and they get real sick, make sure they are the same limitations on total coverage that people who get cancer or diabetes or tuberculosis or triple bypass have. And that is all it says.

That is the reason it is not going to cost very much. The amendment that passed early on, where we mandated coverage and we mandated parity of actual literal coverage, was very, very different. And my friend from Texas might have made a very serious argument there, but in this case that is not the situation.

So I believe, to say if you are writing mental health coverage it has to have these limits and turn around and say, on the other hand, even if you have done that, insurance company, we have the right to say, well, lower the level and give us another kind of coverage with less of that because we want freedom of choice—the choice is clear.

You can buy an insurance policy without mental health coverage or you can buy in the manner discussed so eloquently on the floor by the Senator from Utah, if that applies. So having said that, I move to table and ask for the yeas and nays.

Mr. GRAMM. Mr. President, I ask the Senator on one point to allow me to respond.

Mr. DOMENICI. I would be pleased to.

Mr. GRAMM. I do understand. I grew up in a household with someone who had mental illness. I grew up in a household where nobody had health insurance. We did not have health insurance for physical or mental ailments. But the point is, if you are going to mandate coverage, then you will end up with more people who have no health insurance, and you are going to have more people without jobs.

The point is that under this amendment you lose your right to choose. To keep a policy that has limited mental health coverage, you either have to take no mental health coverage or take coverage equal to that set for physical illness coverage. The Brown amendment gives you choice. It seems to me that is what we want.

My problem here is not that I do not understand. My problem is that I do understand. My problem is that I do understand what this does economically. I do understand that this takes away from people the right to choose. That is why I am opposed to it. There certainly is no politics in opposing this amendment. We should all be for giving everybody everything. Unfortunately, we live in a world where people have to choose. When we choose for them, they not only have less freedom, they do not get to choose to spend their money as they would choose to spend it.

I believe families know better than we do. Even though our intentions may be wonderful and even though we may wish everybody had mental health coverage, families have to make hard choices when they have to pay. Businesses have to make hard choices. All I am saying is let them choose. If you want to make insurance companies provide the coverage, do not make people buy it. Have it available. Let them look at the cost. If it costs one-sixth of 1 percent, they will buy it if they want it. I would certainly buy it at that cost.

My fear is we are going to find out later this is a very costly add-on, and we are going to price people out of the health insurance they have now, and they are going to end up with both physical and mental ailments, and they will not be covered for either.

Mr. WELLSTONE. I know my colleagues are anxious to move forward. Although there is so much I want to say for the record, I yield.

Mr. DOMENICI. I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Utah [Mr. HATCH], the Senator from Oregon [Mr. HATFIELD], and the Senator from Alaska [Mr. MURKOWSKI], are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon [Mr. HATFIELD], would vote "yea".

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 75, nays 22, as follows:

[Rollcall Vote No. 273 Leg.]

YEAS—75

Akaka	Domenici	Leahy
Baucus	Dorgan	Levin
Bennett	Exon	Lieberman
Biden	Feingold	Lugar
Bingaman	Feinstein	McConnell
Bond	Ford	Mikulski
Boxer	Frist	Moseley-Braun
Bradley	Glenn	Moynihan
Breaux	Graham	Murray
Bryan	Grassley	Nunn
Bumpers	Harkin	Pell
Burns	Heflin	Pressler
Byrd	Hollings	Pryor
Chafee	Hutchison	Reid
Cochran	Inouye	Robb
Cohen	Jeffords	Rockefeller
Conrad	Kassebaum	Roth
Coverdell	Kennedy	Santorum
D'Amato	Kerrey	Sarbanes
Daschle	Kerry	Shelby
DeWine	Kohl	Simon
Dodd	Lautenberg	Simpson

Snowe	Thomas	Warner
Specter	Thompson	Wellstone
Stevens	Thurmond	Wyden

NAYS—22

Abraham	Gorton	Kyl
Ashcroft	Gramm	Lott
Brown	Grams	Mack
Campbell	Gregg	McCain
Coats	Helms	Nickles
Craig	Inhofe	Smith
Faircloth	Johnston	
Frahm	Kempthorne	

NOT VOTING—3

Hatch	Hatfield	Murkowski

The motion to lay on the table the amendment (No. 5195) was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LOTT. Mr. President, for the information of all Members, we are working now on getting a UC typed up that would lay out how the time will be used for the next hour. We are in the process now of typing up an agreement that would lay out the debate, and the votes over the next hour and a half. I think that would allow us to make good progress and be able to get to the conclusion of the VA-HUD bill, and either go to final passage after that, or, depending on a couple of other things, we are working on final passage and could have stacked votes Tuesday morning. But we will have that worked out momentarily.

The next thing we will do is to go to the next pending amendment for a vote. Senator GRAMM I believe has a second-degree amendment.

THE DEFENSE OF MARRIAGE ACT

Mr. LOTT. In the meantime, I ask unanimous consent that the Senate now turn to consideration of Calendar No. 499, H.R. 3396, the Defense of Marriage Act.

Mr. DASCHLE. I object.

The PRESIDING OFFICER. Objection is heard.

CLOTURE MOTION

Mr. LOTT. I move that the Senate proceed to the H.R. 3396, and I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to H.R. 3396, the Defense of Marriage Act:

Senators Trent Lott, Bob Smith, Conrad Burns, Rod Grams, Larry E. Craig, Judd Gregg, Jim Inhofe, Hank Brown, Don Nickles, Dan Coats, Chuck Grassley, Craig Thomas, Frank H. Murkowski, Lauch Faircloth, Richard Shelby, Slade Gorton, Phil Gramm.

Mr. LOTT. Mr. President, I want our colleagues to know that I have been discussing this back and forth with the Democratic leader. He was aware that I was going to do this. We are working on a number of other issues that are not directly related necessarily to this. We also have an understanding that we are working out on exactly what time this vote might occur.

But I have just filed a cloture motion on the motion to proceed to H.R. 3396. Under rule XXII, the cloture vote will occur—we will either have this occur on Monday or agree to a time on Tuesday. I believe we are going to agree to a time on Tuesday when this vote will occur. So I think we are getting cooperation on that.

If we continue to work toward an agreement on the VA–HUD appropriations bill, and go ahead and get started next on the Interior appropriations bill, then we would probably have this vote on Tuesday morning around 10 o'clock. But we will make that official later on.

I now withdraw the motion to proceed.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The motion is withdrawn.

The Democratic leader.

Mr. DASCHLE. I just wanted to take a moment to explain that it is not our desire necessarily to hold up this piece of legislation. There is support on our side as well. Unfortunately, the majority leader has not been able to work out an agreement with us to accommodate a number of Senators on our side who wish to offer amendments. It was for that reason that I objected tonight.

Obviously, we will have a good debate about the bill. It will be my hope we could offer amendments, but at least at this time it does not appear to be likely. We will continue to work together and try to find a way to resolve these issues, but at least tonight that has not been resolved.

I yield the floor.

Mr. LOTT. I yield the floor, Mr. President.

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1997

The Senate continued with the consideration of the bill.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, while the distinguished majority leader is here, I would just like to state I think Senator GRAMM is going to offer an amendment which I will accept, and then we will vote on the Domenici-Wellstone amendment as amended by the Gramm amendment.

AMENDMENT NO. 5196 TO AMENDMENT NO. 5194

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows.

The Senator from Texas [Mr. GRAMM] proposes an amendment numbered 5196 to amendment No. 5194.

Mr. DOMENICI. Could we have order, Mr. President.

The PRESIDING OFFICER. The Senator will suspend.

The Senate is not in order. Senators will take their conversations to the cloakroom, please, so the Senator from Texas can be heard.

The Senator from Texas.

Mr. GRAMM. Mr. President, it is a very short amendment. It will minimize the debate if we just have it read.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

At the appropriate place in the amendment, insert the following: Notwithstanding the provisions of this title, if the provisions of this title result in a one percent or greater increase in the cost of a group health plan's premiums, the purchaser is exempt from the provisions of this title.

Mr. GRAMM. Mr. President, this amendment says that if Senator DOMENICI is wrong, and there are more than de minimis costs in expanding this coverage, and those costs exceed 1 percent, then the purchaser of that policy would be exempt.

I think this is a good stopgap measure. If the Senator is right and this coverage can be provided for one-sixth of 1 percent, then it will be provided. If it raises the cost of the policy more than 1 percent, the purchaser of the policy would be exempt.

I think it does improve the underlying amendment, and I am grateful the Senator has accepted it.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, consistent with everything I knew when I brought the amendment to the floor, the cost should not exceed a 1 percent increase, and therefore, in good faith to the Senators who supported me and supported the amendment, I accept this amendment as further evidence of what I have been saying in the Chamber for the last hour and a half.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment by the Senator from Texas.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, after working with the Democratic leader, I ask unanimous consent that the following amendments be the only amendments in order between now and 9:30 p.m.; that any votes ordered with respect to those amendments be stacked to begin at 9:30. They are as follows: Gramm second-degree amendment to Domenici, Domenici-Wellstone, Harkin Veterans' Administration amendment, Daschle spina bifida, and the Lott-Daschle Iraq resolution.

The PRESIDING OFFICER. Is there objection?

Mr. DASCHLE. Mr. President, reserving the right to object, only for the purposes of clarification, it is my understanding that the spina bifida amendment will either be up or down or a tabling motion. Is that correct?

Mr. LOTT. That is correct.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. Reserving the right to object.

Mr. LOTT. Mr. President, let me consult before I respond completely on that point. Let me double check with the managers of the bill to make sure.

Is there something we can do in the interim while we make sure of the answer to that question?

Mr. GRAMM. Sure. Finish the amendment.

The PRESIDING OFFICER. The pending business is the amendment of the Senator from Texas.

Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 5196) was agreed to.

Mr. GRAMM. Mr. President, I move to reconsider the vote.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. Do we have the yeas and nays ordered on the underlying amendment?

The PRESIDING OFFICER. The yeas and nays have not been ordered on the underlying amendment.

Mr. DOMENICI. I ask for the yeas and nays on the Domenici-Wellstone amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there further debate?

Mr. DOMENICI. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Let me renew the unanimous-consent request and read it from the beginning again, because there have been some changes already.

I ask unanimous consent that the following amendments be the only amendments in order between now and 9:30, that any votes ordered with respect to those amendments be stacked to begin at 9:30. They are as follows: Since we have already dealt with the Gramm second-degree amendment to Domenici, the first vote beginning at 9:30 would be Domenici-Wellstone, followed by a motion to table the Harkin amendment, followed by a vote on a point of order on germaneness on the Daschle spina bifida amendment, followed by a vote on the Iraq resolution.

The PRESIDING OFFICER. Is there objection?

Mr. LOTT. There was not objection to that?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. On the final passage of VA-HUD, they are checking on that. That could also occur tonight or will occur stacked with other votes on Tuesday, probably beginning at 2:15. But the leader and I have discussed this, and I have his commitment that we will either do it tonight or we will do it in stacked votes on Tuesday. So we will basically be prepared to complete the VA-HUD appropriations bill either tonight, depending on one other outstanding issue, or we will definitely have the final vote on it at 2:15 on Tuesday. And we will plan on asking consent there be 10 minutes between these votes beginning at 9:30, so if Members stay in the Chamber, we could get them done quickly. And you will have time here now to get a bite to eat, and we will start this series of votes at 9:30 and hope we can wrap it up tonight.

Ten-minute votes, 10-minute votes, not between each vote.

Mr. President, let me go ahead and ask that now.

When the votes occur at 9:30, I ask unanimous consent that they be 10-minute votes; that there be 2 minutes between each vote equally divided to explain briefly exactly what the vote is, so Members will make sure they understand exactly what the vote is.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. I yield the floor.

Mr. BOND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BURNS). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. Mr. President, I see the Senator from Iowa is present. I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

AMENDMENT NO. 5197

(Purpose: To provide that funding for veterans medical care shall not be reduced to states)

Mr. HARKIN. I send an amendment to the desk on behalf of Senator MOYNIHAN, myself, and Senator SPECTER, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for himself, Mr. MOYNIHAN and Mr. SPECTER, proposes an amendment numbered 5197.

At the appropriate place, add the following:

SEC. . Without regard to any provision in this bill, no plan for the allocation of health care resources (including personnel and funds) used or implemented by the Department of Veterans Affairs among the health care facilities of the Department shall reduce the funding going to any state for veterans medical care for the fiscal year ending September 30, 1997, below its fiscal year 1996 level of funding if the total funding provided for veterans medical care in fiscal year 1997 exceeds the fiscal year 1996 funding level.

Mr. HARKIN. Mr. President, I wanted to have the amendment fully read so all Senators and staff watching on their television sets would know exactly what this amendment is all about.

The veterans of the United States have earned the right to decent health care and medical care. They have risked their health and their lives to secure the liberties that we all enjoy. As we allocate scarce dollars for veterans' health care, we must ensure that no State is unfairly cut. That is why I am rising here to offer an amendment that will ensure that no State will lose funding for veterans' health care this year if the overall budget for veterans' medical care increases, which it does in this bill. The budget goes from $16.6 billion in fiscal year 1996 to $17 billion in this bill, an increase of about 2.4 percent.

Why this amendment? Yesterday this body voted for an amendment by Senator MCCAIN that calls for changes in the funding formula for veterans' health care. I hope my colleagues understand the full impact of that amendment. I want to make sure my colleagues know the amendment that was adopted yesterday goes far beyond a mere study of the funding formula. I listened to some of the debate yesterday, and I talked with some Senators. They said to me, "This is just a study of the funding formula."

That amendment, adopted yesterday, calls for implementation of the plan without further action by Congress. Let me read the relevant part of that amendment.

(d) IMPLEMENTATION.—The Secretary shall implement the plan developed under subsection (a) ["shall" implement the plan developed under subsection (a)] not later than 60 days after submitting the plan to Congress under subsection (c), unless within that time the Secretary notifies Congress that the plan will not be implemented in that time and includes with the notification an explanation why the plan will not be implemented in that time.

That is the end of it.

So subsection (d) says the Secretary shall implement the plan within 60 days, not later than 60 days. It does not say that Congress has to do a darn thing. He just has to submit it to Congress, and then within 60 days, he has to implement it, unless within that time he submits or notifies Congress that the plan will not be implemented and spelling out the reasons why it will not be implemented.

I hope we all understand the full force and effect of this. The Secretary of Veterans Affairs will submit a plan to Congress for reorganization. The McCain amendment says it shall be implemented not later than 60 days, unless the Secretary turns right around and tells Congress, "Oh, no, we don't want to implement it, and here are the reasons why we shouldn't."

That is about as bizarre as you can get, that the Secretary would come up with an implementation plan and then turn right around and tell Congress, "But it's no good, and we don't want to implement it."

I urge my colleagues, each and every one of the Senators here, to call your regional network director to find out what the amendment will do to their States. I think you may be in for some surprises, because the VA, without notice to all of us, is already working to phase in a change in payments to the States over the next 2 years, and that change, which is similar to that called for under the McCain amendment this body adopted, would result in substantial cuts to many States' VA medical care budgets, even with the 2.4 percent increase that this bill provides nationally.

The draft VA plan would significantly cut funds to Iowa. I only found out about the cuts because of an article in the August 23 issue of the Cedar Rapids Iowa Gazette that indicated that veterans centers in Iowa and Nebraska would be receiving $12 million less in fiscal year 1997 than in fiscal year 1996. This reduction was confirmed by John T. Carson, director of the Central Plains Network, in a letter to my office.

Mr. President, this article goes on to show that there are going to be huge cuts in Iowa and in Nebraska, at least, under this article, and others, even though the total amount of money for VA health care is increased next year.

I have a letter from Mr. Carson spelling out the details of what it would mean for Network 14. The fiscal year 1996 base of distribution is $268,035,000. The recommended fiscal 1997 allocation is $255,942,000, a difference of over $12 million less for that network, even though the funding nationally is going up.

Mr. President, I ask unanimous consent that this article and the letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Cedar Rapids Iowa Gazette, Aug. 23, 1996]

VA OFFICIAL WARNS OF FUTURE IOWA CUTS

(By Lyle Muller)

Iowa City.—Iowa's Veterans Affairs medical centers may have to cut more jobs next year if they cannot trim non-personnel expenses, a VA official said Thursday.

Any cuts would follow the 100-plus scheduled for after Oct. 1 at VA hospitals in Iowa City, Des Moines and Knoxville.

"One of the worrisome things is, will we have to continue that next year?" Tom Carson, director of the Department of Veterans Affairs' regional office, said in Iowa City.

"I believe we all hope that we do not face what we faced this year," he said, referring to a year of furloughs and finally decisions to cut jobs during the federal budget year that begins Oct. 1. "It's a major troubling item we have facing us for fiscal year 1997."

Carson said he expects the three Iowa centers and three more hospitals he oversees in Nebraska to spend $12 million less next budget year than they received in federal funding this year.

The centers, which make up the VA Health Administration's Central Plains Network, would be able to spend $256 million next budget year, according to current plans.

That is about 4 percent less than this year's $268 million and marks a radical change from what Carson previously was expecting. Until this week, plans called for boosting spending at the Iowa and Nebraska centers by 2.5 percent.

Carson was in Iowa City for a monthly meeting with the directors of the Iowa and Nebraska centers. The anticipated funding cut was to receive most of the attention, he said.

On Tuesday, Iowa City's VA Medical Center announced it will eliminate 39 jobs after Oct. 1.

Gary Wilkinson, director of the 1,200-employee, 165-bed Iowa City center, said he expected to spend $72.6 million next budget year. That will be adjusted, however, because it reflected a 2.5 percent increase, he said.

"This last year we were in financial trouble; there's no question about that," Wilkinson said. "We decided there was this number of people that we couldn't afford."

Eliminating 39 jobs at the Iowa City center will save about $1 million, officials there estimate.

The Des Moines center announced last month that it will drop 25 jobs. Knoxville has targeted 32 filled positions and 18 vacant ones for elimination.

DEPARTMENT OF VETERANS AFFAIRS,
NETWORK 14, MIRACLE HILLS
PARKVIEW PROFESSIONAL CENTER,
Omaha, NE, August 23, 1996.

PETER REINECKE,
Legislative Director, Senator Harkin's Office, U.S. Senate, Washington, DC.

DEAR MR. REINECKE: Thank you for your inquiry regarding the projected FY 97 budget for Network 14. As VHA changes its reimbursement methodology to a capitation system, the following resource adjustment occurs for Network 14:

Network 14:	
FY 96 Base for Distribution	$268,035,000
Recommended FY 97 Allocation	255,942,000
Difference	12,093,000

The specific details of the allocation methodology can be developed at your request. Mr. Steve Varnum, our Chief Financial Officer, is the best person to discuss this issue. Unfortunately, he is on vacation until September 3. If it is agreeable, we will have him call you on that day to discuss the allocation methodology.

We have asked each medical center for information on Category C veterans per your request. We will fax the information to you by September 3, 1996, if this is satisfactory.

Please contact us for any additional information you need.

Sincerely,

JOHN T. CARSON,
Director, Central Plains Network.

Mr. HARKIN. Mr. President, if that article had not appeared, I probably would have blindly gone forward and voted for the McCain amendment and voted for this bill, assuming that Iowa would get a 2.4 percent increase in its VA health care budget. After all, that is what is in the bill. The bill contains a 2.4 percent increase.

If we do not adopt the amendment that I just sent to the desk, I am concerned that my colleagues from the Midwest and many other States will also see massive cuts.

All my amendment does is ask for a little fairness in allocating the veterans health care budget. Our veterans in Iowa are older than the national average. We have the highest percentage of citizens over age 85 in the Nation—the highest. The health care that these, our oldest, veterans require is much more expensive than that for the general veteran population.

Any capitation funding formula that does not adequately account for these factors will be grossly unfair to States like Iowa, and the McCain amendment does not do the job. In fact, the amendment of the Senator from Arizona was specifically revised to strike the factoring in of the medical condition and, thus, the cost of caring for veterans from the distribution formula.

Let me repeat that. The Senator from Arizona specifically revised his amendment to strike the factoring in of the medical condition and, thus, the cost of caring for veterans from the distribution formula.

My friend, the Senator from Arizona, argues that the sheer number of veterans moving to his State creates an unfairness, but it is the younger, healthier, and generally better off retired vets who are moving to the sunshine States. It is the older, the sicker, and the poorer vets who are increasing in other States like Iowa. As a result, the McCain amendment and the VA draft plan are grossly unfair to our States.

While on the surface it may sound very nice to say we ought to allocate the money for just every veteran, that every veteran ought to count the same in allocating the money. On the surface it sounds generally reasonable that, if you have more veterans in one State, they ought to get proportionally more than veterans in another State if that State has fewer veterans. But what about a State like Iowa or New York or Pennsylvania or Wisconsin or Indiana, or a lot of other States, where, again, our populations are older and they are poorer and they require this VA medical help?

I suppose my friend from Arizona might say, "Well, they are moving to Arizona," but I am sorry, Mr. President, that is not the case. It is the younger, the healthier, and the more prosperous ones who are moving to Arizona. What we are left with are those who are older and sicker and poorer, and they cost more to care for, especially in a rural area. This has to be taken into account.

It would be grossly unfair to equate an 80-year-old veteran, let's say, who is making $12,000 a year or less and living in Iowa and has severe health problems with a 65-year-old veteran fully mobile who has moved to Arizona and plays golf every day. So the formula that the VA comes up with has to take the medical condition into account.

Mr. DASCHLE. Will the Senator from Iowa yield? I apologize for interrupting.

Mr. HARKIN. I will be delighted to yield, if I do not lose my right to the floor.

Mr. DASCHLE. Without losing his right to the floor. We have a number of pieces of legislation that have to be addressed in the next hour. We anticipated, given what the Senator from Iowa indicated to me that he only had 10 minutes, that it would take 10 minutes. We have now used a half hour of that time allotted. He certainly did not consume it all. But I am wondering whether it would be appropriate to get a unanimous-consent agreement that the time on the Harkin amendment will be terminated at 8:45 to allow other amendments to be debated so that we can assure the opportunity to vote on all of these at 9:30, as the unanimous-consent request was proposed.

Mr. HARKIN. I say to my leader, I thought it would only take about 10 minutes. I only wanted to make my point on them. I think the Senator from Arizona is probably going to rebut them. I am sorry. I apologize, I did not know we had a 9:30 time.

Mr. McCAIN. Mr. President, reserving the right to object, the Senator from Florida and I do not intend to take a lot of time. We understand what the distinguished Democratic leader is saying. In 2 or 3 minutes we can rebut the arguments of the Senator from Iowa.

I think it is very important we provide courtesy to other people with other amendments so they will have ample time, too. So, please, don't base your continued conversation on the fact that the Senator from Florida and I will take a lot of time. We don't need a lot of time, frankly, to rebut your arguments.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the time on the Harkin amendment, with appropriate responses from the Senator from Arizona and others, be limited to no more than 20 minutes.

Mr. BOND. Mr. President, reserving the right to object, I think there are a couple minutes for both the Senator from Arizona and the Senator from Florida. I had 5 minutes. We started this at 8 o'clock. And I notified the Senator from Iowa we were trying to get going. If we could divide this. He has had an opportunity. If he could take 5 more minutes, and we could have 10 minutes.

Mr. HARKIN. I did not start at 8 o'clock. I apologize to my friends on the floor. I have been talking now for just a little over 7 minutes. I started about 7 minutes ago.

Mr. DASCHLE. Mr. President, 8:16 is when we were told from the desk you started. That is not the point. How much more time does the Senator from Iowa need?

Mr. McCAIN. I would take 2 minutes. I do not know about the Senator from Florida.

Mr. GRAHAM. Two minutes.

Mr. DASCHLE. That is 4 minutes. The Senator from Missouri had 5 minutes. That would be 9 minutes. How much time does the Senator from Iowa need?

Mr. HARKIN. Ten minutes.

Mr. DASCHLE. Mr. President, I propound the unanimous-consent request 20 minutes to be divided, 2 minutes, 2 minutes, 5 minutes and 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Mr. President, this body is making a major change in the dark, without adequate information of its impact on the States. I have asked the VA for a State-by-State breakdown of their draft reallocation plan so I could share it. However, the VA will not provide it to me. They will not provide it to me.

After begging and pleading for information, I found out that 8 of the 22 regional networks are scheduled to receive cuts under the draft plan. I believe that more would be cut under the McCain amendment because the VA is phasing in their change over 2 years. Under the draft VA plan, networks could see cuts as high as 15 percent next year alone.

Mr. President, I have an incomplete list of States and these networks that would be cut, up to 15 percent, despite a 2.4 percent increase in this bill. They are Iowa, Nebraska, California, Nevada, Michigan, Illinois, Indiana, Wisconsin, New York, New Jersey, Massachusetts, Connecticut, Rhode Island, New Hampshire, Maine, Pennsylvania, West Virginia, Delaware, and Vermont. This is an incomplete and unofficial list. I have derived it from information provided by VA officials. So I want to assure you that this is not in any way complete.

Let me tell you about the probable impact on Iowa veterans.

Until a month ago the regional network for Iowa and Nebraska was counting on a budget increase commensurate with the proposed 2.4-percent increase in the VA medical budget for fiscal year 1997. Even with this increase there have been significant layoffs at our hospitals and an increase in the number of veterans being turned away from medical care. They are being told "tough luck."

Let me just relay a couple of the stories. One of the Iowa veterans who has been shut out has multiple sclerosis. He qualifies for Social Security disabilities. But Medicare does not come close to covering all his medication costs. He is classified as a category C veteran because his wife works and makes about $18,000.

Mr. President, let me remind you category C veterans are treated at the discretion of the VA. Because of the tight budgets, this veteran is being turned away without warning after coming to rely upon the Veterans' Administration for help. He is justifiably angry he is being dropped by the Government. He is worried about his medication bills. He and his wife are trying to be independent, but they need help from the VA medical center to make it.

There is another Iowa veteran who has diabetes, back problems, depression. He is on Social Security disability, Medicare. He has bought Medicare supplemental. He has been going to the VA medical center for his medications which cost over $10,000 a year. If he were single he would be eligible for VA medical services. But his wife makes about $25,000 a year. He is classified as category C. The local VA medical center has turned him away because of tight budgets. This veteran who faithfully served this country is trying to decide between dropping most of his medication for diabetes, depression and pain or separating from his wife.

Mr. President, can we in good conscience do this to our veterans?

A third Iowa veteran had rectal cancer. He had his anus, rectum, part of his colon, and part of a lung removed. He has had painful chemotherapy and radiation therapy. Despite all this, he is managing to keep a small business going, but he has been told he earns too much, cannot come back to the VA medical center for treatment. He is now faced with giving up his business just so he can get medical care.

These three veterans are far from unique in Iowa. And now, if Iowa is subject to this big cut, as opposed to a 2.4-percent increase in the Nation, it will get much, much worse.

This amendment has the support of the American Legion in Iowa, the Iowa AMVETS, the Iowa VFW.

Mr. President, I ask unanimous consent that letters from them be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE AMERICAN LEGION DEPARTMENT OF IOWA, OFFICE OF THE DEPARTMENT SERVICES OFFICE,
September 5, 1996.

Hon. TOM HARKIN.

DEAR SENATOR HARKIN: It was brought to our attention that you are going to be presenting an amendment before Congress proposing funding for the Department of Veterans Affairs medical centers not be reduced to the states.

We wanted you to know that The American Legion, Department of Iowa, wholeheartedly approves of this proposed Amendment.

We have many veterans who fall into the VA's Category C (veterans who make too much money to receive VA Health Care), and we do not wish any other veterans to be cut from the system.

The veterans of the United States deserve better treatment from our government and we hope that you are also working on getting rid of the "categories" that prohibit certain veterans from receiving health care they so desperately need. They served our country and believed our country would be there for them. It is ironic that the government called on them—yet will turn around and cut the funding for the veterans at the drop of a hat.

We thank you for your support and hope that your proposal is victorious.

Sincerely,

KRISTIN WALDRON,
Senior Claims Representative.

AMVETS,
DEPARTMENT OF IOWA,
Des Moines, IA, September 5, 1996.

To: Senator TOM HARKIN.
Attn: Kevin Aylesworth.
From: Robert O. Steben, National Service Officer, American Veterans of World War II, Korea, and Vietnam (AMVETS).

On behalf of the American Veterans of WWII, Korea, and Vietnam, I want to express our sincere support for your effort to ensure that funding for veterans medical care shall not be reduced to states.

We have many veterans who are already feeling the effects of cuts in services to veterans who had been receiving discretionary services. Further cuts would be devastating. . . . These veterans have served our country without concerns for their lives—many were wounded and died to save our country from tyranny. The least we can do for them is maintain 1st class medical programs for them—if it were not for the veterans we wouldn't have the comforts we all enjoy in this Great United States.

ROBERT O. STEBEN, AMVETS,
National Service Officer, Iowa.

VETERANS OF FOREIGN WARS,
DEPARTMENT SERVICE OFFICER,
Des Moines, IA, September 5, 1996.

Senator TOM HARKIN,
Attn: Kevin Aylsworth.

Dear Sir: The Veterans of Foreign Wars, Department of Iowa, supports your proposal to retain equitable and appropriate funding for Iowa's veterans, and wish to thank you for your continued efforts on their behalf.

Very truly yours,

M. TERRY LIPOVAC,
Department Service Officer.

Mr. HARKIN. Mr. President, I ask my colleagues, what is the Department of Veterans Affairs planning to do to the veterans of your State? We are doing something here in the dark without any information on their impact on the States. My amendment simply says this, that if there is an increase like there is in this bill, that no State will get less than what they did last year.

That means that Mr. MCCAIN in Arizona and perhaps Mr. GRAHAM in Florida and other sunshine States, they can get the increase, but at least do no harm. That is what my amendment does. It borrows from the adage: First, do no harm. We are about to rush in, make rash changes in the VA medical care funding allocations, and in a lot of our States, a lot of veterans are going to get hurt.

So let us not do any harm. All my amendment says is—we will cede the increase—but let us next year hold the States harmless, that no State will get a cut next year. And then let us see what the VA's plan really does when they come to Congress next year. I reserve the balance of my time.

Mr. BOND. Mr. President, the Senator from Arizona has agreed that his 2 minutes can be allocated to the Senator from Florida. So I ask the full 4 minutes be allocated to the Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. GRAHAM. Thank you, Mr. President.

Mr. President, this amendment which was adopted overwhelmingly by the Senate, today being the third or fourth instance in which this amendment has been adopted, speaks to a simple principle. And that is, that the Nation's commitment to provide for the health care of its veterans is a national commitment, and that that commitment runs to individual veterans, not to them through the State in which they happen to live.

These facilities that provide the services are facilities of the Federal Government, financed and administered under laws that we enact. Our responsibility is to individual veterans. The principle of this amendment is that those veterans should be treated equitably.

The fundamental operative provision of the amendment which this Senate has adopted is that the Department of Veterans Affairs, among the health care networks of the department, shall allocate health care resources so as to assure that veterans who have similar economic status and eligibility priority and who are eligible for medical care have similar access to such care regardless of the region of the United States in which such veterans reside, a fundamental principle of fairness. And that, Mr. President, has been the objective of the Veterans' Administration for over a decade.

Prior to 1985, the Veterans' Administration followed the principle that the Senator from Iowa is advocating we return to. And that is, that you look first at what were expenditures in the previous year, make incremental adjustments to those previous expenditures, and that becomes the funding level for the future.

According to a report by the General Accounting Office, dated February 1996, the VA historically allocated funds to facilities on the basis of the facility's past expenditures with incremental increases for such factors as inflation and new programs.

Beginning in 1985—I repeat, beginning in 1985—the Veterans Administration modified its allocation system because it recognized the need to more directly relate funding to the work performed, the cost to perform it, and to improve the efficiency and productivity with which medical care is delivered to veterans. We have not had the plan that the Senator from Iowa suggested for a decade.

This same GAO report indicates we need to move further in order to accomplish the objective, that we still have a system which does not treat all of our veterans fairly according to their eligibility standards, their economic status, and their eligibility for and need for medical services. The GAO report states in part, "Because of differences in facility rationing practices, veterans' access to care systemwide is uneven. We found that higher income veterans receive care at many facilities while lower income veterans were turned away at other facilities."

That is the system that we have today. Mr. President, there are a number of reasons why this is occurring. A fundamental reason is the fact that veterans are, as a part of our population, becoming a smaller group. We have fewer veterans today than we did 5 years ago and we will have still fewer 5 years into the future, and veterans are not distributing themselves proportionately across the country.

For example, in the State of Arizona, between 1980 and 1995, the number of veterans increased by 89,000 or 24 percent. There were 24 percent more veterans in Arizona in 1995 than in 1980. In the State of the proponent of this amendment, the number of veterans in the same 15-year period declined by 68,000 or almost 19 percent. Yet the Senator is advocating a proposition

that says regardless of the number of veterans being served—my State happens to have a declining population while another State has an increasing population—we should, for some arbitrary reason, fix on the past and say that will be the basis on which we will distribute our Veterans' Administration funds for medical care, not taking into account what that means in terms of per patient recipient of funds or what it may mean in terms of encouraging greater efficiency and effectiveness in the use of funds available.

I could give stories similar to the one that the Senator from Iowa has just given about former residents of his State who now live in my State who say, "When I lived in my previous residence I was able to get certain prescriptions from the VA center. I cannot get them now in my new home. I was able to get treatment for a condition in my previous residence through the VA. I cannot receive it in my new home because of inadequate resources and inequitable allocation of funds."

Mr. President, the principle of the amendment of the Senator from Arizona and myself is a simple one: The Nation's responsibility is to individual veterans wherever they live. And to fulfill that responsibility, we should pursue the goal of treating all veterans equally wherever they might live, and the responsibility is upon the Veterans Administration to reach that goal.

We have outlined a plan which the Veterans' Administration supports. They support the amendment that this Senate has already adopted because they recognize that it is a road back to achieve the objective which they have been pursuing since 1985.

Mr. President, I urge the Senate recommit itself to the principle of fairness that was adopted earlier in the debate on this issue and reject the amendment of the Senator from Iowa, which would return us to a period of a decade in the past and would return us to a time in which we did not accept the principle that all veterans should be treated equally, because all veterans in the same economic conditions, the same health status, have served this Nation with equal valor and commitment and deserve to be treated fairly.

Mr. BOND. Mr. President, reluctantly I state that I cannot support the Harkin amendment. The amendment, as has been recognized, is directly in conflict with the McCain amendment we adopted yesterday, which the Senate approved in a 79 to 18 vote. I am very sympathetic to the concerns of the Senator from Iowa that certain VA facilities may be losing resources relative to other facilities as the Veterans Administration changes its operations to become more like an efficient, modern, managed care organization.

I am fully supportive of the steps VA is taking to change the way it operates. Frankly, I believe the changes initiated by the VA under Secretary for Health Dr. Ken Kaizer represent very positive steps for the betterment of veterans' health care, and the McCain amendment is completely consistent with the bold and necessary steps being taken by Dr. Kaizer to ensure approved quality of care for veterans.

I do not minimize that the steps being taken are painful. The VA has never experienced so much change in so little time. However, with declining discretionary resources, a shift in the veteran population to Sunbelt States, a decline in the veteran population, and rapid changes in health care delivery, the VA must, indeed, make changes.

The McCain amendment reflected the findings of a GAO report of February 1996 which found the VA's traditional method of allocating resources was not equitable, it was not population based, and some facilities were receiving twice as much funding per patient as other facilities. In response to GAO's findings and in recognition of the need to change its traditional resource allocation method, the Veterans' Administration has begun moving toward a parity-based capitated model for resource allocation. I emphasize that, despite what some newspaper stories may have stated, no final allocations have yet been determined.

In the process of allocating the resources more equitably, a process which is to be fully implemented in fiscal year 1998, there are going to be some areas in some facilities which are winners. There are going to be some facilities which are losers. There are different populations served by those facilities. It is the right direction for the VA to be pursuing. It will bring about efficiencies, fairness, and improved care. We should not stand in the way of these important improvements. We have already seen the elimination of some redundancies as closely located facilities merge their administrative services and as VA opens community-based outpatient clinics in lieu of providing high-cost hospital-based care.

In my own State of Missouri, the Poplar Bluff, MO, Veterans' Administration recently closed inpatient surgical procedures because of the inadequate workload and excessive mortality rates. The decision to close that portion of the facility was painful and four doctors lost their jobs. But it was the right decision. It was the right decision for the facility, for the system, but, most importantly, it was the right decision for veterans' health care.

The Harkin amendment is unacceptable partly because at this time VA does not know what the specific allocation to each hospital will be for fiscal year 1997 since the model for resource allocation for fiscal year 1997 is still under development. Frankly, it is possible that some facilities could receive less than the fiscal year 1996 level. Moreover, the allocation will not be individually to hospitals but rather to the 22 networks, each of which encompass several VA facilities and which we can hope will be based on the need and the population in each area.

I should add, very importantly, that the Veterans' Administration is opposed to the amendment as it takes a step backward to the progress it is attempting to make. The VA has said the only obstacle to better health care for veterans is likely to be Congress. If we are looking at how many jobs in how many facilities and trying to legislate those into place and into being, we will prevent an improvement in the system.

The VA has stated it intends to provide health care services to the 2.8 million veterans currently receiving care. Even with the resource adjustments within the system, VA does not expect to deny patients care who are now getting care in any of its 22 networks.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who seeks recognition?

Mr. HARKIN. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator from Iowa has 4 minutes.

Ms. MIKULSKI. Will the Senator yield 1 minute to me?

Mr. HARKIN. I am delighted to yield a minute to the Senator from Maryland.

Ms. MIKULSKI. Mr. President, I see no discrepancy between the McCain amendment that we adopted last night and what Senator HARKIN is doing. Senator HARKIN is essentially doing a bridge and ensuring that those States that might have to make readjustments under the new plan that is being suggested can do so, which I voted for; I voted for McCain. But doing McCain without Harkin is going to send out panic in the Northeast-Northwest corridor. We want to have full-scale cooperation. We want to do the plan being suggested in an orderly, rational way. We don't need administrators doing damage control instead of patient management. I do not see the discrepancy.

Senator HARKIN's amendment is for 1 year, this fiscal year, providing the bridge, because the Veterans' Administration does not have a plan. This does not prohibit McCain from going forward in terms of the plan and giving us the report in 60 days, beginning to implement the 60 days. You can do that, but it is going to take a full year to do it. With all due respect to the VA, they are, at times, a bit sluggish. This will at least give a year. I see that as a bridge. I thank the Senator from Iowa. I support the McCain amendment, I support the Harkin amendment, and I support the veterans. God bless America.

Mr. HARKIN. I thank the Senator from Maryland. I had written down here that a vote for my amendment

does not contradict a vote for McCain at all. The Senator from Maryland pointed that out. What I am saying is that, for the first year, all of the increase can go to Florida and can go to Arizona, these high-growth States. All we are saying is, don't cut the legs out from underneath those States, so we at least have 1 year to figure out what is going on here. That is why I offered this amendment. I am not trying to fix on the past. I am not advocating that at all. I want efficiencies. But any plan that does not take into account the age and the illness, rural areas, that type of thing, I am sorry, that is not a good plan.

Again, I point out that last night the Senator from Arizona modified his amendment. If you read the first page, what was modified and stricken out—it says this as it was first written:

The Secretary of Veterans Affairs shall develop a plan for the allocation of health care resources in the Department of Veterans Affairs among the health care facilities of the department so as to ensure that veterans who have similar economic status and eligibility priority or medical conditions. . . .

Guess what was stricken out? "Or medical conditions." That is what I am talking about. This amendment says wait a minute, you have to take into account medical conditions. I say to my friend from Florida, that is why I think we need a year, as the Senator from Maryland said, as a bridge. I know that the number of veterans in Iowa is going down. They are going up in Florida and in Arizona. I understand that. But keep in mind, as I keep saying, that the ones we have left are the older and the poorer of the veterans. They don't deserve to have their legs cut out from underneath them in one fell swoop. Let us be careful.

The PRESIDING OFFICER. All time has expired on debate on this amendment.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The minority leader is recognized.

AMENDMENT NO. 5190

(Purpose: To provide benefits for certain children of Vietnam veterans who are born with spina bifida, and to offset the cost of such benefits by requiring that there be an element of fault as a precondition for entitlement to compensation for a disability or death resulting from health care or certain other services furnished by the Department of Veterans Affairs)

Mr. DASCHLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from South Dakota [Mr. DASCHLE], for himself, Mr. KERRY, Mr. ROCKEFELLER, Mr. WELLSTONE, Ms. MIKULSKI, Mr. BYRD, Mr. DODD, Mr. CONRAD, Mr. INOUYE, Mr. PELL, Mr. SIMON, Mr. FEINGOLD, Mr. BREAUX, Mrs. BOXER, Mr. DORGAN, Mrs. FEINSTEIN, Mr. GLENN, Mr. HARKIN, Mr. ROBB, Mr. KENNEDY, Mr. FORD, Mr. REID, Ms. MOSELEY-BRAUN, Mr. LEAHY, Mr. HOLLINGS, and Mr. KOHL, proposes an amendment numbered 5190.

Mr. DASCHLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 97, between lines 15 and 16, insert the following:

SEC. 421. (a) The purpose of this section is to provide for the special needs of certain children of Vietnam veterans who were born with the birth defect spina bifida, possibly as the result of the exposure of one or both parents to herbicides during active service in the Republic of Vietnam during the Vietnam era, through the provision of health care and monetary benefits.

(b)(1) Part II of title 38, United States Code, is amended by inserting after chapter 17 the following new chapter:

"CHAPTER 18—BENEFITS FOR CHILDREN OF VIETNAM VETERANS WHO ARE BORN WITH SPINA BIFIDA

"Sec.
"1801. Definitions.
"1802. Spina bifida conditions covered.
"1803. Health care.
"1804. Vocational training and rehabilitation.
"1805. Monetary allowance.
"1806. Effective date of awards.

"§ 1801. Definitions

"For the purposes of this chapter—

"(1) The term 'child', with respect to a Vietnam veteran, means a natural child of the Vietnam veteran, regardless of age or marital status, who was conceived after the date on which the veteran first entered the Republic of Vietnam during the Vietnam era.

"(2) The term 'Vietnam veteran' means a veteran who performed active military, naval, or air service in the Republic of Vietnam during the Vietnam era.

"§ 1802. Spina bifida conditions covered

"This chapter applies with respect to all forms and manifestations of spina bifida except spina bifida occulta.

"§ 1803. Health care

"(a) In accordance with regulations which the Secretary shall prescribe, the Secretary shall provide a child of a Vietnam veteran who is suffering from spina bifida with such health care as the Secretary determines is needed by the child for the spina bifida or any disability that is associated with such condition.

"(b) The Secretary may provide health care under this section directly or by contract or other arrangement with any health care provider.

"(c) For the purposes of this section—

"(1) The term 'health care'—

"(A) means home care, hospital care, nursing home care, outpatient care, preventive care, habilitative and rehabilitative care, case management, and respite care; and

"(B) includes—

"(i) the training of appropriate members of a child's family or household in the care of the child; and

"(ii) the provision of such pharmaceuticals, supplies, equipment, devices, appliances, assistive technology, direct transportation costs to and from approved sources of health care, and other materials as the Secretary determines necessary.

"(2) The term 'health care provider' includes specialized spina bifida clinics, health care plans, insurers, organizations, institutions, and any other entity or individual who furnishes health care that the Secretary determines authorized under this section.

"(3) The term 'home care' means outpatient care, habilitative and rehabilitative care, preventive health services, and health-related services furnished to an individual in the individual's home or other place of residence.

"(4) The term 'hospital care' means care and treatment for a disability furnished to an individual who has been admitted to a hospital as a patient.

"(5) The term 'nursing home care' means care and treatment for a disability furnished to an individual who has been admitted to a nursing home as a resident.

"(6) The term 'outpatient care' means care and treatment of a disability, and preventive health services, furnished to an individual other than hospital care or nursing home care.

"(7) The term 'preventive care' means care and treatment furnished to prevent disability or illness, including periodic examinations, immunizations, patient health education, and such other services as the Secretary determines necessary to provide effective and economical preventive health care.

"(8) The term 'habilitative and rehabilitative care' means such professional, counseling, and guidance services and treatment programs (other than vocational training under section 1804 of this title) as are necessary to develop, maintain, or restore, to the maximum extent practicable, the functioning of a disabled person.

"(9) The term 'respite care' means care furnished on an intermittent basis for a limited period to an individual who resides primarily in a private residence when such care will help the individual to continue residing in such private residence.

"§ 1804. Vocational training and rehabilitation

"(a) Pursuant to such regulations as the Secretary may prescribe, the Secretary may provide vocational training under this section to a child of a Vietnam veteran who is suffering from spina bifida if the Secretary determines that the achievement of a vocational goal by such child is reasonably feasible.

"(b) Any program of vocational training for a child under this section shall be designed in consultation with the child in order to meet the child's individual needs and shall be set forth in an individualized written plan of vocational rehabilitation.

"(c)(1) A vocational training program for a child under this section—

"(A) shall consist of such vocationally oriented services and assistance, including such placement and post-placement services and personal and work adjustment training, as the Secretary determines are necessary to enable the child to prepare for and participate in vocational training or employment; and

"(B) may include a program of education at an institution of higher education if the Secretary determines that the program of education is predominantly vocational in content.

"(2) A vocational training program under this subsection may not include the provision of any loan or subsistence allowance or any automobile adaptive equipment.

"(d)(1) Except as provided in paragraph (2) and subject to subsection (e)(2), a vocational training program under this section may not exceed 24 months.

"(2) The Secretary may grant an extension of a vocational training program for a child

under this section for up to 24 additional months if the Secretary determines that the extension is necessary in order for the child to achieve a vocational goal identified (before the end of the first 24 months of such program) in the written plan of vocational rehabilitation formulated for the child pursuant to subsection (b).

"(e)(1) A child who is pursuing a program of vocational training under this section and is also eligible for assistance under a program under chapter 35 of this title may not receive assistance under both such programs concurrently. The child shall elect (in such form and manner as the Secretary may prescribe) the program under which the child is to receive assistance.

"(2) The aggregate period for which a child may receive assistance under this section and chapter 35 of this title may not exceed 48 months (or the part-time equivalent thereof).

"§ 1805. Monetary allowance

"(a) The Secretary shall pay a monthly allowance under this chapter to any child of a Vietnam veteran for any disability resulting from spina bifida suffered by such child.

"(b)(1) The amount of the allowance paid to a child under this section shall be based on the degree of disability suffered by the child, as determined in accordance with such schedule for rating disabilities resulting from spina bifida as the Secretary may prescribe.

"(2) The Secretary shall, in prescribing the rating schedule for the purposes of this section, establish three levels of disability upon which the amount of the allowance provided by this section shall be based.

"(3) The amounts of the allowance shall be $200 per month for the lowest level of disability prescribed, $700 per month for the intermediate level of disability prescribed, and $1,200 per month for the highest level of disability prescribed. Such amounts are subject to adjustment under section 5312 of this title.

"(c) Notwithstanding any other provision of law, receipt by a child of an allowance under this section shall not impair, infringe, or otherwise affect the right of the child to receive any other benefit to which the child may otherwise be entitled under any law administered by the Secretary, nor shall receipt of such an allowance impair, infringe, or otherwise affect the right of any individual to receive any benefit to which the individual is entitled under any law administered by the Secretary that is based on the child's relationship to the individual.

"(d) Notwithstanding any other provision of law, the allowance paid to a child under this section shall not be considered income or resources in determining eligibility for or the amount of benefits under any Federal or federally assisted program.

"§ 1806. Effective date of awards

"The effective date for an award of benefits under this chapter shall be fixed in accordance with the facts found, but shall not be earlier than the date of receipt of application for the benefits.".

(2) The tables of chapters before part I and at the beginning of part II of such title are each amended by inserting after the item referring to chapter 17 the following new item:

"18. Benefits for Children of Vietnam Veterans Who Are Born With Spina Bifida ..... 1801".

(c) Section 5312 of title 38, United States Code, is amended—

(1) in subsection (a)—

(A) by striking out "and the rate of increased pension" and inserting in lieu thereof ", the rate of increased pension"; and

(B) by inserting after "on account of children," the following: "and each rate of monthly allowance paid under section 1805 of this title,"; and

(2) in subsection (c)(1), by striking out "and 1542" and inserting in lieu thereof "1542, and 1805".

(d) This section and the amendments made by this section shall take effect on January 1, 1997.

SEC. 422. (a) Section 1151 of title 38, United States Code, is amended—

(1) by striking out the first sentence and inserting in lieu thereof the following:

"(a) Compensation under this chapter and dependency and indemnity compensation under chapter 13 of this title shall be awarded for a qualifying additional disability or a qualifying death of a veteran in the same manner as if such additional disability or death were service-connected. For purposes of this section, a disability or death is a qualifying additional disability or qualifying death if the disability or death was not the result of the veteran's willful misconduct and—

"(1) the disability or death was caused by hospital care, medical or surgical treatment, or examination furnished the veteran under any law administered by the Secretary, either by a Department employee or in a Department facility as defined in section 1701(3)(A) of this title, and the proximate cause of the disability or death was—

"(A) carelessness, negligence, lack of proper skill, error in judgment, or similar instance of fault on the part of the Department in furnishing the hospital care, medical or surgical treatment, or examination; or

"(B) an event not reasonably foreseeable; or

"(2) the disability or death was proximately caused by the provision of training and rehabilitation services by the Secretary (including by a service-provider used by the Secretary for such purpose under section 3115 of this title) as part of an approved rehabilitation program under chapter 31 of this title."; and

(2) in the second sentence—

(A) by redesignating that sentence as subsection (b);

(B) by striking out ", aggravation," both places it appears; and

(C) by striking out "sentence" and substituting in lieu thereof "subsection".

(b)(1) The amendments made by subsection (a) shall take effect on October 1, 1996.

(2) Section 1151 of title 38, United States Code (as amended by subsection (a)), shall govern all administrative and judicial determinations of eligibility for benefits under such section that are made with respect to claims filed on or after the effective date set forth in paragraph (1), including those based on original applications and applications seeking to reopen, revise, reconsider, or otherwise readjudicate on any basis claims for benefits under such section 1151 or any provision of law that is a predecessor of such section.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the amount of time allocated to this amendment not exceed 15 minutes with the time evenly divided between myself and the Senator from Missouri, Senator BOND.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, we had the debate on this amendment this morning, so this is meant simply to be a summary statement. Let me begin by reminding my colleagues about the mission of agent orange and the Agent Orange Act of 1991.

The Agent Orange Act of 1991 was passed unanimously, 99–0, with the cosponsorship of my colleague from Wyoming, Senator SIMPSON. It requires the Department of Veterans Affairs to evaluate scientific findings from the National Academy of Sciences, based on their review of all related evidence.

This year, the National Academy of Sciences found compelling evidence, based on scientifically sound epidemiological studies, to place spina bifida in the second category of compensated diseases. As I mentioned earlier, the VA already covers all of the conditions in categories 1 and 2, except spina bifida, because the Secretary doesn't have the authority to provide these benefits to children of veterans.

We are not here today to debate the underpinnings of the original law. What we are here today to do is to talk about our obligation. The battle about the original law was fought and won. That ended 5 years ago.

We have a reasonable proposal to address the unique needs of these kids, whose disabilities are linked to their parent's exposure to agent orange. I don't have to remind any of my colleagues that the National Academy of Sciences is a highly respected, nonpartisan research organization. Congress regularly relies on the National Academy of Sciences to provide unbiased, scientifically sound information. It is very unfortunate, as some of my colleagues have done, to criticize their professionalism simply because one disagrees with its findings.

NAS has assembled a panel of expert scientists to review all of the signs associated with agent orange exposure. They found several epidemiological studies that supported an association between parental exposure to agent orange and the presence of spina bifida in children. NAS found the reanalysis of the Ranch-Hand study particularly compelling. They compared Vietnam veterans with non-Vietnam veterans and accounts of exposure. Despite the comments of the Senator from Wyoming this morning, they have indeed found a higher incidence of spina bifida in the children of Vietnam veterans. That is what led them to conclude what they did in the report last spring.

That report states simply:

Neural tube birth defects were in excess among offspring of Ranch Hands with four total cases in contrast to none among the comparison infants.

This translates into a rate of 5 per 1,000, significantly higher than CDC's normal spina bifida rate of 4.5 per 10,000.

In other words, there is a four times higher level of incidence of spina bifida with agent orange exposure than there is with no agent orange exposure, according to this study. These findings

are statistically significant. And that is what the law requires. If you see a significant statistical difference, you have to reflect that in the requirements provided in the law that passed in 1991.

Furthermore, in addition to the Ranch Hand study, a number of studies of veterans appear to show an elevated relative risk for either service in Vietnam or estimated exposure to herbicides or dioxin, and the presence of neural tube defects in their offspring. For those interested in reading an unbiased analysis of the strengths and weaknesses of each study, I certainly refer you to the NAS report.

Mr. President, we could talk for the rest of the night, if we had the time, about the science of this issue. The real question is: Who ought to get the benefit of the doubt? Who should deserve the benefit of the doubt, given the commitment made by our veterans in Vietnam, now more than 20 years ago? Do we give it to the veterans and their children, or do we give it to those who would argue that we need more information, more science, more data, even though the accumulation of data has already demonstrated a clear association?

By placing spina bifida in the second category, NAS, the experts we chose 5 years ago to advise us, concluded there is evidence suggestive of an association. The law set a standard of positive association that we are relying upon in this amendment. When the credible evidence for an association is equal to or outweighs the evidence against an association, the benefit of the doubt, by law, must go to the veteran. The law specifically does not require evidence of cause and effect.

Reconciliation has not happened and is not in sight. As a result, the provision identified in the amendment can be used as savings to pay the very limited benefits we are talking about today. This widely supported provision would insert into the law a fault requirement to limit the VA's liability in non-malpractice related cases.

Regardless of what arguments can be put forth by others, the fact that a hearing is being held later this month is an argument that, in my view, is not relevant to the debate on this amendment. It is not even dealing with the issue. Those interested in addressing the issues raised by the March report have been working for months to design an appropriate solution.

This amendment is strongly supported by veterans and disability communities. Veterans and their families have waited decades for the confirmation embedded in these findings. They should not have to wait any longer.

This amendment is clearly germane to the underlying bill. It is a veterans issue, and this is a veterans bill. We are not going to be fooling America's veterans by suggesting that somehow this is not germane. Opponents of this amendment should not be able to hide behind some convenient, questionable procedural motion. This is germane. It is relevant. And the time to act is now.

We cannot wait any longer. Let us treat spina bifida as we do all the other diseases that we have already determined have a direct association to agent orange exposure. Let us give veterans and their children the means and support necessary to deal with the problems associated with this crippling disability.

I yield the floor.

Mr. BOND. Mr. President, we have had a lot of debate, a lot of heated rhetoric, and a lot of stirring stories of personal tragedies during this morning's session and tonight, and there is a lot of emotion involved. I think it is reasonable to understand why there is emotion, because every year in the United States there are approximately 150,000 babies born with serious birth defects. There are congenital heart defects, Down's syndrome, neural tube defects, primarily spina bifida. Of those birth defects, about 4,000 babies have spina bifida.

Over the past several years, I have worked with the March of Dimes attempting, with some success, to get the Centers for Disease Control funding for their prevention programs in research to find out what causes these problems, to set up a surveillance and monitoring program so that we can have some sound evidence as to what causes these defects. Some research on spina bifida is already bearing fruit. There is a connection between mothers taking folic acid early in pregnancy, and reduced rates of the incidence of spina bifida have been found. This is good news. This is good science. We are making some progress. But a lot more work needs to be done on the causes, the incidence, and the protections.

Now we come to the recent actions by the National Academy of Sciences. Let me be clear that the agent orange law does not require us to expand an entitlement on this bill. The Agent Orange law does not apply to children or offspring of veterans. The agent orange law sets up some presumptions, but they have to be based on science, which is not present here.

The National Academy of Sciences in their review this past spring found in one study what the authors called a possible association between exposure and spina bifida in the offspring of veterans. The National Academy of Sciences then presented this information to the Veterans' Administration with the caution on how the study should be used. In fact, in that study, the task force emphasizes that its conclusions "made for the limited purposes of PL–10234 do not reflect a judgment that a particular health outcome has shown to be caused by, or in some cases even definitely associated with, herbicide exposure under the standards ordinarily governing such conclusions for purposes of scientific inquiry and medical care."

So much for the contentions that there is compelling scientific evidence. They said there was not.

Later this summer, the author of the study, the Ranch Hand study, told us in testimony before the House that his study was not adequate to make a decision that there was a causal link. He cautioned the House, and said do not count on a causal link from this study. It does not show it.

Then, on July 29, the minority leader introduced legislation which used the study to create this new entitlement program. There has not been a hearing held on it in the authorizing committee.

But there is also some new information that, frankly, I just came across. The Air Force has now sent a letter to Congress, dated August 29, in which they state in their 1996 progress report on the bottom of page 3—this is on the Ranch Hand study, the one study which reported to show any connection:

> We found no indication of increased birth defects severity, delays in development, or hyperkinetic syndrome with paternal dioxin. The data provides little or no support for the theory that external exposure to Agent Orange and its dioxin contaminant is associated with adverse reproductive outcomes.

Mr. President, I think that there is a very real question of whether there is any—certainly this has not been demonstrated—scientific evidence of a linkage.

It is time for cooler heads to prevail. We have all expressed our concerns over birth defects. The amendment is not supported by sound scientific evidence. It is not even uniformly supported by veterans groups who recognize that the impact of the amendment will mean reduced benefits to veterans as a result of new entitlements and health care for dependents.

There are many questions which the debate has raised which deserve full consideration in the normal legislative process before the authorizing committee. The opponents of this amendment have every bit as much compassion for people with these disabilities such as spina bifida. All we are saying is let us get the science that establishes the linkage. It is not there. Let us not jump into something that is so lacking in scientific evidence.

That is precisely why we have a separate procedure in this body to consider legislation, particularly legislation setting up an entitlement program with hearings and actions before an authorizing committee.

Since this is an attempt to set up an entitlement program, and it has not been heard before or acted upon by the authorizing committee, I raise a point of order that this amendment is not germane.

The PRESIDING OFFICER. The Chair would suggest that the manager of the bill withhold his request as the minority leader still has 50 seconds of his time.

Mr. DASCHLE. Mr. President, I yield that time to the distinguished Democratic whip.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, I have listened to my colleague from Missouri talk about the March of Dimes. I started with the March of Dimes. We raised $800 trying to find a polio vaccine until it was completed. For 25 years I have worked with the March of Dimes and scholarships. The March of Dimes can't be used to stop this amendment. The veterans and their children deserve the vote of this Senate.

If you could listen to the Democratic leader and the statements he has made, if you want to vote against the Vietnam veterans' children with spina bifida, you go ahead and do it. Then we will see who suffers the consequences. We are talking about children here. Let us be compassionate tonight, and not be so hard that we say to these Vietnam veterans there is even the possibility that they should not be taken care of.

I hope the Senate will join the Democratic leader and support his amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri has 49 seconds.

Mr. BOND. Mr. President, the argument about political retribution for somebody who demands scientific evidence and wants to provide a fair hearing and a scientific basis for action is one which does not, I think, serve this body well. I think we have a proper procedure for determining whether there is scientific evidence. To date, there has been none shown. That is why when I said this is entitlement legislation being offered on an appropriations bill, it is not germane to the appropriations process. And, for that reason, I raise this point of order that this amendment is not germane.

The PRESIDING OFFICER. The question should be submitted to the Senate.

Does the Senator request the yeas and nays?

Mr. BOND. I ask for the yeas and nays on the question of germaneness.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

UNITED STATES RESPONSE TO IRAQI AGGRESSION

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. According to the unanimous consent agreement, the final issue to be disposed of at approximately 9:30 deals with the resolution relating to Iraq. I would like to address that resolution at this time.

I send it to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A resolution (S. Res. 288) regarding the United States response to Iraqi aggression.

The Senate proceeded to consider the resolution.

Mr. DASCHLE. Mr. President, on Tuesday, I spoke briefly about my views on President Clinton's decision to retaliate against Iraq for its unprovoked, unjustified, and brutal attack on the civilian population of Irbil, a city in northern Iraq.

At that time, I also indicated I planned to introduce a resolution condemning Saddam Hussein's behavior and expressing the Senate's support for the President's actions.

I must say I never dreamed it would take this long and be this difficult to arrive at a simple resolution in support of the actions taken earlier this week.

For several days now, we have been attempting to resolve issues relating to language and have been thwarted and frustrated in that effort for a lot of reasons, in large measure because many of my colleagues on the other side wish not to laud the President or find any way with which to praise the President's actions. In fact, for the last several hours the issue has been, do we even use the word "President" in the resolution? There was an adamant feeling on the part of many on the other side that we could not use the word "President," and so you will not find that word used as a result of the requirements by many of my colleagues on the Republican side.

In fact, the only reference to the President is a reference to the Commander in Chief, and I must say that that is suitable to many of us, but I do believe that it is a very unfortunate set of circumstances that could have caused some partisanship, in fact a great deal of partisanship, to enter into these deliberations.

Let me at the same time applaud the majority leader for his willingness to continue to work with me to resolve those outstanding questions and to come to some compromise on the language that has now been presented to the Senate. His work and his cooperation as well as that of some of our colleagues on the other side have brought us to this point tonight.

Let me also thank the distinguished Senator from Georgia, the ranking member of the Armed Services Committee, Senator NUNN, and the distinguished Senator from Michigan, Senator CARL LEVIN. Let me also thank Senator PELL and many others—Senator BIDEN, who had a lot to do with the wording of this legislation; in addition, Senator MCCAIN, Senator WARNER, and others who were very helpful in bringing us to this point.

Let me make it very clear that in spite of what I consider to be the pettiness involved with whether you use the word "President" or not, this resolution very clearly and strongly and wholeheartedly supports the measures taken by this President in the last 72 hours.

Last Saturday, in spite of clear warnings from the United States and the international community, Iraqi forces commenced their vicious attack on the defenseless civilian Kurdish population in and around Irbil. Casualties reportedly numbered in the thousands. Reports of door-to-door searches resulting in executions were rampant and, unfortunately, all too credible.

In addition to this obvious toll on human life, Saddam's invasion also threatens the interests of the United States and its allies in this crucial region of the world. The prospect for factional strife has been greatly increased while regional stability has been called into question, thereby enhancing the risk of a larger scale conflict in the region.

Saddam's aggression is in direct contravention of the United Nations Resolution 688 which was enacted in 1991 at the end of the Persian Gulf war. At that time the Security Council empowered the United States, Britain, and France to protect the Kurdish population from human rights abuses by the Iraqi regime through the establishment of a no-fly zone over large portions of northern and southern Iraq.

Saddam's attack on Irbil blatantly violates international norms and is by itself sufficient justification for the President's decisions to strike four critical Iraqi targets with 44 cruise missiles and to expand the no-fly zone northward to the very suburbs of Baghdad.

Unfortunately, the aggression in Irbil is but the latest in a string of ruthless and provocative actions undertaken by Saddam before, during, and after the Persian Gulf war.

Mr. President, I will not outline the entire catalog of violent and reprehensible acts undertaken by Saddam and his henchmen since he ascended to power in Iraq. Needless to say, the list is as chilling as it is long. President Clinton succinctly noted in his statement on Tuesday, "Saddam Hussein's objectives may change but his methods are always the same—violence and aggression against the Kurds, against ethnic minorities, against Iraq's neighbors."

It is for these reasons that I support and our colleagues support the President's decision to take action. I am very confident the American people feel exactly as we do tonight.

The President's actions served a twofold purpose. First, they showed Saddam that he will pay a price for his latest act of aggression. In mounting the

largest attack on Iraqi territory in the 5 years since the end of the Persian Gulf war, president Clinton has appropriately reminded Saddam that violations of international norms will not go unpunished.

Secondly, by destroying air defense assets in central Iraq and extending the no-fly zone northward toward Baghdad, the United States has greatly reduced the threat Saddam poses to his opponents within Iraq and his opponents in adjoining nations.

By restraining Saddam's bloody hand, the President's decisive action has limited the ability of an oppressive regime to disrupt the volatile center of a Middle East region that is vital to American foreign policy interests. The response was measured, appropriate, and absolutely necessary.

I also want to indicate at this time my strong support for the men and women in uniform who are asked repeatedly to go in harm's way to protect our national interests. Early damage reports from the latest attack on Iraq indicate another mission accomplished without a hitch and without a casualty.

It is noteworthy that despite the end of the cold war, the military forces of the United States continue to play a crucial role around the world in advancing and protecting our national interests. This dedicated group of men and women have been called upon repeatedly since the collapse of the Soviet Union and the onset of the post-cold-war era. They have never failed the American people or our friends abroad.

The resolution before us is an extremely crucial matter for all of us because our enemies and friends must see that we speak with one voice when it comes to our policy for containing and defeating Saddam Hussein. As we have learned only too painfully in the past, domestic discord on important national security issues only plays into the hands of those who seek to undermine our resolve. It is critically important to demonstrate national unity when our military forces are in harm's way.

Even in this most intense political season, politics for all Americans still ends at the water's edge.

President Clinton was faced with a broad array of choices when deciding how to respond to Saddam's aggression, everything from doing nothing to inserting United States ground troops and forcefully evicting Iraqi troops from Irbil. Obviously, each end of this spectrum constitutes an unacceptable and inappropriate response. Only something between the two extremes makes any sense, precisely the course chosen by President Clinton.

This resolution puts the Senate forcefully behind the President's measured decision. The President opted both to weaken Iraqi air defenses and simultaneously expand the area in which the Iraqi Air Force will not be permitted to operate. These actions clearly demonstrate the United States is prepared to impose real costs on Saddam Hussein for his aggression. As noted by Gen. Colin Powell, the President did exactly the right thing.

Of our friends and allies abroad, we ask they stand with the United States as we seek to faithfully implement the U.N. resolutions adopted at the end of the Persian Gulf war. Saddam's actions demonstrate he still represents a direct threat to his people, his neighbors, and the security of the entire vitally important region. If the world were to look the other way now and allow Saddam to go unpunished, we would encourage more blatant and damaging incursions in the future. There must be no doubt in Saddam's mind that the international community is united in its opposition to such unacceptable behavior.

Finally, to Saddam Hussein, let us state for the record the position of this administration and this Congress, as plainly and as simply as we can. Although we may belong to different political parties and have opposing views on some issues, we stand united and indivisible on this. Iraqi aggression must not go unpunished, now or in the future. We will insist on Iraq's compliance with international norms of behavior, regardless of the circumstance.

To this end I have worked with the distinguished majority leader to draft a resolution condemning Saddam's behavior and indicating our strong support for the U.S. response to this latest incident. With the adoption of this resolution by the Senate, there should be no doubt in anyone's mind, least of all Saddam Hussein's, that the American people are united in their opposition to this conduct. Passage of this resolution is one way to demonstrate to our friends and enemies alike, our resolve on this crucial issue.

I ask for its support tonight. I hope we could indicate our support unanimously.

I yield the floor.

Mr. LOTT. Mr. President, just briefly, this Senate Resolution 288 recognizes that the United States and its allies have vital interests in ensuring regional stability in the Persian Gulf. It recognizes that:

On August 31, 1996, Saddam Hussein, despite warnings from the United States, began an unprovoked, unjustified, and brutal attack on civilian population in and around Irbil in northern Iraq.

It recognizes:

the United States responded to Hussein's aggression on September 3, 1996 by destroying some of the Iraqi air defense installations and announcing the expansion of the southern no-fly zone.

Those are the whereas clauses in the resolution. And the resolved says:

The Senate commends the military actions taken by and the performance of the United States Armed Force under the direction of the Commander-in-Chief, for carrying out this military mission in a highly professional, efficient and effective manner.

There are those who would have liked for it to have said a lot more. There are those who were not comfortable saying anything at this time, who have some questions about the policy and what the future holds. But I do think it is appropriate that we have a bipartisan resolution on this subject matter, that we commend our men and women for the job they have done. They have done a wonderful job in the air and on the sea in this instance, as in all other instances. And whenever American forces are introduced, we do come together and partisanship stops at the shoreline, and that is the case here.

We have been working since Tuesday to craft a resolution that condemns what happened there in Iraq, under Saddam Hussein's actions, again, and to commend these troops.

There is no doubt in any Senator's mind that we have 100 percent support by the American people and by us in support of our men and women who have participated in this military action.

The United States has led the multinational coalition which defeated Hussein's aggression in 1991. When President Clinton came into office, he inherited a policy toward Iraq that included a weakened Saddam Hussein, a united international coalition, a solid international sanctions regime and a united Iraqi opposition.

There is concern now about the move toward lessening sanctions, although I had an opportunity to personally ask the President about the sanctions, and he assured me that the sanctions were not being lifted and that the Iraqi oil sales were not going to go forward under these conditions.

We are also concerned about our international coalition, what is going to be their role in the new no-fly zone in the southern part of Iraq.

So there is work to be done in this area, but I am sure both the Congress will be paying attention to that, as will the administration.

There is unanimous condemnation by the American people and by the Senate of the brutal attacks on the Kurdish areas in northern Iraq. That is as it should be. While it is a complicated situation, with interests by Turkey and interests by Iran and by different factions within the Kurds, it still is a situation that we cannot ignore. Any leader of a country, however that person obtained that position, that will exercise that kind of brutality in his own country or threaten military action against its neighbors or, in fact, invade a neighbor must be consistently watched and very serious and strong actions taken against them.

I want to also say I am concerned—and I discussed this with the Democratic leader—about the lack of prior

consultation with the Congress about this action. The War Powers Act is very clear about the need for notification, consultation and also a report on what happened. It did not happen in this instance, and I don't believe it happened on either side of the aisle. That is unacceptable. Perhaps there were reasons for it, but I have expressed my concern to the administration, to the NSC, and I believe that we will have more consultation and notification in the future. We must not have the commitment of military power without even a word of consultation with the Congress. We have to continue to insist on that.

Our resolution is a modest step tonight. Many of our Members would like it to have been much more. I think it is fair. It has been worked out in a bipartisan way. I think it is time we stepped up to this issue, we have this resolution and we move on. So I appreciate the cooperation we did have.

Mr. President, I yield the floor.

Ms. MIKULSKI. Mr. President, I rise to support the resolution on Iraq. This resolution states the Senate stands with our troops, and our President, as they respond to Saddam Hussein's brutality.

The President was right to act to contain Saddam Hussein's aggression. Saddam Hussein's actions threaten American interests and peace in the Middle East—as well as the safety of his own people. He must be taught that his reckless acts have consequences. He must pay the price for his brutal and immoral actions.

The U.S. response is swift, specific and limited. The President responded swiftly and strategically after Iraq seized the city of Irbil in the Kurdish safe haven. Our objectives are clear and limited: to force Saddam Hussein to pay a price for his brutality and to make it safer for our pilots to patrol the no-fly zones in Iraq by destroying Iraqi air defense systems. To achieve these objectives, only specific military sites are targeted.

We have already paid a great price to contain Saddam Hussein in Operation Desert Storm. If we ignore Saddam Hussein's latest aggression, he will only be emboldened to take further reckless actions that threaten our national interests—and the lives of his own people.

Mr. President, my thoughts and gratitude are with our brave troops. They are once again called upon to stand sentry for those who would otherwise stand alone. The men and women of our Armed Forces have performed their mission with great skill and courage. I pray for their safe and swift return.

Mr. KERRY. Mr. President, last weekend Saddam Hussein sought to test the international community's tolerance and resolve yet again. Some 30,000 Iraqi soldiers, led by the elite Republican Guards, attacked and captured the Kurdish-controlled city of Irbil in northern Iraq. Saddam undertook this action despite warnings from the United States and other members of the international community and in defiance of our collective commitment, born out of the Persian Gulf war, to protect the Kurds.

None of us knows why Saddam decided to test us now. But if the history of the last 6 years has taught us anything, it is that Saddam Hussein does not understand diplomacy, he only understands power, and when he brandishes power in a manner that threatens our interests or violates internationally accepted standards of behavior, we must be prepared to respond—and with force, if necessary.

President Clinton's response to Saddam's latest challenge was the right one—decisive, measured, and carefully calculated to take the strategic advantage away from Saddam. By expanding the southern no-fly zone to the 33d parallel, we have denied him the ability to use two key military air bases and to control Iraqi airspace from the Kuwaiti border to the southern outskirts of Baghdad. This significantly reduces his capacity to launch offensive operations against Iraq's neighbors and the Persian Gulf oil fields. By attacking his air defense and command and control systems we have increased our capacity to patrol the no-fly zone and reduced the potential treat to our pilots and those of our British and French allies.

Saddam Hussein has tried to explain away this latest aggressive move by contending that his forces entered Irbil at the request of the Kurdistan Democratic Party [KDP], one of the two warring factions in northern Iraq. It is hard to understand why any Kurdish faction would willingly ally with Saddam, given the many years in which his forces have repressed, tortured and abused the human rights of the Kurdish people. However, if the KDP did request Iraqi intervention, that request does not justify the use of force against Kurdish civilians in Irbil. The international community has made it clear since April 1991, when the United Nations Security Council passed Resolution 688, that it would not tolerate the repression of the Kurds and other Iraqi civilians. That is why the United Nations established the no-fly zone in northern Iraq. The Iraqi attack on Irbil, and the continued threat posed by Iraqi forces positioned to attack again in support of the KDP, contravenes the letter and the spirit of this resolution.

For months the United States has led a diplomatic effort to try to mediate the conflict between two warring Kurdish factions, the Kurdistan Democratic Party led by Massoud Barzani and the Patriotic Union of Kurdistan [PUK] led by Jalal Talabani. There is no doubt that the PUK's flirtation with Iran earlier this year and the raw power politics played by these groups opened the door for Saddam Hussein. Hundreds of innocent Kurdish civilians have died, and others could die as long as Saddam has de facto control over Irbil and Iraqi forces remain poised to attack other PUK-controlled areas.

The United States has a moral interest in preventing the abuse of the Kurdish people, but our strategic interests go beyond this. We have strategic interests in denying Saddam the capability to take action against Kuwait and other states in the region or to threaten the world's oil supply. We also have a strategic interest in supporting the Iraqi opposition as a way to counter Iran's growing influence and limiting its ability to control a post-Saddam Iraq. That is why we did not—and should not—side with either of the Kurdish factions.

The U.S. military response was deliberately designed to accomplish two objectives: first, to make Saddam Hussein pay a steep price for his aggressive moves against Kurdish civilians in Irbil, and second, to weaken his capacity to undertake offensive action in the region. Time and again in the last six years, Saddam has tried to test the international community's commitment to peace and stability in the region. Each and every time he has met a forceful response.

Iraq's August 1990 attack on Kuwait resulted in defeat for Iraqi forces at the hands of a U.S.-led coalition. Suppression of the Kurdish revolt in northern Iraq at the end of the Persian Gulf war led to the establishment of the northern no-fly zone by the international community. Iraqi threats against United States and allied planes enforcing the no-fly zone in January 1993 led to missile strikes against Iraq's southern air defense systems. Six months later President Clinton ordered United States forces to strike at an Iraqi intelligence facility when he learned of an Iraqi plot to assassinate former President Bush. In October 1994, the United States and its allies sent forces to the region as Iraqi troops began to move south toward Kuwait. We did the same thing the following fall when Iraqi troops appeared to be moving south again.

The United States, under President Bush and then President Clinton, led these earlier efforts to contain Saddam. Whereas some of our allies in the region are constrained from acting on this occasion, we are not. Our interests, and the long-term interests of peace and stability in the region, dictate that we respond to this latest test of wills with Saddam.

The Iraqi attack on Irbil has had serious ramifications for the people of Iraq. It has resulted in the deaths of innocent civilians. It has set back the possibility of resolving differences and reaching a viable political settlement

between the Kurdish factions. It has forced the United Nations Secretary General to suspend implementation of U.N. Security Council Resolution 986, which provides for the sale of some Iraqi oil to generate funds to buy food and medicine for the Iraqi people. Irbil is one of the key distribution centers for this humanitarian assistance. Needless to say that plan cannot go forward in the shadow of Iraqi forces.

President Clinton made it clear that we intend to judge Saddam Hussein by his actions, not his words. Saddam has said that Iraq will not respect the expanded no fly zone and yesterday, Iraqi radar locked on a United States plane enforcing the zone. What this means is unclear. Clearly the rational response on Saddam's part would be to refrain from any action that will escalate this crisis. I know that all of us hope that rationality will prevail.

Mr. WARNER. Mr. President, I join the majority leader today in expressing the Senate's support for the accomplishments by the men and women of the Armed Forces who planned and executed the recent air strikes against Saddam Hussein and the Iraqi military. At times of international crisis, it is essential that our troops in the field—those who are assuming high personal risks—know that they have the support of Congress and the American people. Having myself served in, and later with our military, as Secretary of Navy, I know the vital need for this support for our troops and their families.

Since Saddam Hussein's forces invaded Kuwait in August 1990, I have been a consistent supporter of U.S. military, using force if justified, to stop Iraqi aggression throughout that region. It is clearly in the national security interests, and the economic interests, of the United States—and indeed the international community—to ensure that the Government and military of Iraq do not threaten the stability of a region which contains an estimated 70 percent of the world's known oil reserves. That is why the United States, under the leadership of President Bush, was able to put together the most significant military coalition since World war II to force Iraqi invaders out of Kuwait, restore Kuwait sovereignty, impose severe restrictions and prohibitions on Saddam Hussein's military capability and aggressive behavior, and restore a measure of stability to this ever troubled region.

I was privileged to work with Senator Dole in drafting the legislation and managing the floor debate resulting in Senate approval of the resolution which authorized President Bush to employ U.S. Armed Forces—using force—in the Gulf War. It is hard to image today—when a consensus generally exists in this country for taking military action against Iraqui agression—that in 1991, with 500,000 U.S. troops in the Gulf ready to use force that the Senate supported the authority for the President to use force by a mere 5 votes. Thankfully, after Desert Storm was launched, the Congress, the nation quickly rallied behind our troops. The missions, as set out in U.N. resolutions, were successfully accomplished.

Today, the crisis in Iraq is not simply about a tragic civil war between factions of the Kurds. It is about maintaining the regional security balance that our troops fought—and died—for in 1991. Almost 6 years after the gulf war, the international community is still fighting to secure Saddam's compliance with the agreements demanded from him and his government at the end of the war. Yet today, Saddam continues to defy U.N. weapons inspectors; refuses to account for Kuwaitis missing since the war; refuses to return Kuwaiti property seized during the Iraqi occupation; and continues to repress Iraqi citizens. Such actions must not be tolerated.

The United States has already made a substantial investment, in the Sacrifices, casualties of our troops and their families, to contain Saddam's aggression. During Desert Storm, almost 150 U.S. military personnel were killed, and over 460 were wounded. In addition, the American taxpayer invested heavily in the U.S. major military effort, and has continued to pay—an average of at least a half billion dollars a year since 1991—to contain Saddam Hussein.

That investment must be preserved, so a U.S. response to Saddam's latest transgression had to be made. The timeliness, the magnitude, and the process by which the Presidential decisions were made must be fully reviewed. But for now, a "well done" to the U.S. military.

I commend the majority leader, Senators THURMOND and MCCAIN for their leadership on this resolution.

Mr. CRAIG. Mr. President, Saddam Hussein's movement into northern Iraq was yet another direct threat to U.S. national interest: to maintain security and stability in the Middle East. American cruise missiles have struck various Iraqi military installations with the purpose of deterring Iraq from further violence against the Kurds and to take out air-defense systems that posed a danger to our air patrols.

I support the President as our Commander in Chief and his decision to attack Saddam Hussein's military installations to provide greater protection for our personnel enforcing the current and expanded no-fly zone. I stand 100 percent behind the brave men and women in our Armed Forces. Therefore, I support the resolution we are voting on this evening which condemns Saddam Hussein's actions and expresses support for our troops and the President's efforts to curb further actions by Iraq. It is my understanding that after intelligence reports disclosed the Iraqi military buildup, clear warnings were sent that he should not use any military force—warnings that were not heeded.

Mr. President, Saddam Hussein's actions and our response didn't come out of the blue. They are an extension of ongoing efforts to enforce the restraints placed on Iraq at the end of the Gulf war. Therefore, while the use of force should always be a last resort tool of foreign policy, the reckless and aggressive pattern of actions Hussein has carried out, required the only warning he would respond to: force.

While we can understand these recent events, the future of this situation remains a concern for us all. U.S. interests in the region have not changed. In addition, the various conflicts among neighboring nations and the division within the Kurdish people, further complicates our ability to stabilize the situation. It is critical and in our national interest that the administration work with our allies, especially those in the region, to bring this incident to a peaceful conclusion.

Finally, while the cold war has come to an end, it is clear that we continue to live in an unstable world where our national security interests will be tested. We must continue to fully fund our Armed Forces so they remain strong. When we ask American men and women to put their lives on the line for our country, they better have the best equipment and training possible.

Mr. President, there is no doubt that we have strong national security interests in this very volatile and unstable region of the world. Any further hostility by Saddam Hussein's forces against our personnel, or in violation of Operation Provide Comfort or the other restraints established by the international community must be met with a swift and decisive response from the United States.

Mr. BIDEN. Mr. President, 2 days ago the President ordered a forceful response to Iraq's aggression against its own Kurdish minority.

The question before us is whether the Senate supports the action taken by our President.

Some have expressed concerns that go beyond the scope of that question. They have raised points that could be the matter of legitmate debate—but that debate should be reserved for another day.

We are not debating the history of American diplomacy with respect to Iraq. We are not debating the future of American security policy in the Persian Gulf. We are simply being asked to state whether or not we support the actions initiated by the Commander in Chief; Whether we support the troops fulfilling his orders; and, whether we condemn Saddam Hussein's aggressive actions.

These are weighty matters in and of themselves. We should not cloud the debate by injecting extraneous issues.

I intend to support the resolution before us because I believe that the forceful response ordered by the President was both necessary and appropriate. Saddam Hussein has demonstrated repeatedly that he only understands the language of force.

He was warned explicitly by the United States when evidence mounted of a threatening Iraqi military mobilization. He chose to ignore those warnings and enter an area that has been the site of past Iraqi transgressions. His actions violated universal human rights norms as well as U.N. Security Council Resolution 688, which demanded that he cease his oppression of the Kurds.

Had this aggression gone unanswered, it would have strengthened his position internally and emboldened him to strike elsewhere. Thankfully, it did not go unanswered.

President Clinton's decisive action sent a strong signal that the United States will not condone Iraqi military adventurism. It sent the message that there is a price to pay for aggression. It served to protect vital interests in the Persian Gulf by reassuring key allies of America's commitment to regional stability. And by extending the Southern no-fly-zone, the President has constrained Saddam Hussein's ability to make greater mischief.

Upholding these interests transcends the concerns that I and many of my colleagues have over becoming enmeshed in the internecine warfare between Kurdish factions. The saga of the Kurds is a long tale of struggle, betrayal, and oppression. It is one that is further complicated by a regional dynamic involving Iran, Iraq, Syria, and Turkey. The Kurdish question does not lend itself to an easy solution.

However, we should not allow the complexities of Kurdistan to cause us to lose sight of our broader objectives. The President's action is not about involving the United States in Kurdish intrigue. It is about containing a dangerous tyrant who is a continuing threat to international peace and security. It is about preserving stability in a region vital to American national security. In short, it is about protecting American interests.

I urge my colleagues to join me in standing with the President as he confronts a ruthless dictator.

DEPARTMENT OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1997

The Senate continued with the consideration of the bill.

Mr. BOND. Mr. President, I gather now we are able to wrap up the other matters which do not require a vote. We will attempt to do those very quickly. These are matters that have been cleared on both sides.

AMENDMENT NO. 5198

(Purpose: To revise the name of the Japan-United States Friendship Commission)

Mr. BOND. Mr. President, I send an amendment to the desk by Mr. BINGAMAN, Mr. MURKOWSKI, and Mr. ROCKEFELLER, to revise the name of the United States-Japan Friendship Commission, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Missouri [Mr. BOND], for Mr. BINGAMAN, for himself, Mr. MURKOWSKI and Mr. ROCKEFELLER proposes an amendment numbered 5198.

Mr. BOND. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 104, below line 24, add the following:

SEC. 421 (a) REVISION OF NAME OF JAPAN-UNITED STATES FRIENDSHIP COMMISSION.—(1)(A) The first sentence of section 4(a) of the Japan-United States Friendship Act (22 U.S.C. 2903(a)) is amended by striking out "Japan-United States Friendship Commission" and inserting in lieu thereof "United States-Japan Commisison".

(B) The section heading of such section is amended to read as follows:

"UNITED STATES-JAPAN COMMISSION".

(2) Subsection (c) of section 3 of that Act (22 U.S.C. 2902) is amended by striking out "Japan-United States Friendship Commission" and inserting in lieu thereof "United States-Japan Commission".

(3) Any reference to the Japan-United States Friendship Commission in any Federal law, Executive order, regulation, delegation of authority, or other document shall be deemed to refer to the United States-Japan Commission.

Mr. BOND. It is agreed to on this side.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 5198) was agreed to.

Mr. BOND. Mr. President, I move to reconsider the vote.

Ms. MIKULSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 5199

(Purpose: To require the conveyance to the City of Downey, California, of certain real property under the jurisdiction of NASA)

Mr. BOND. Mr. President, I send an amendment to the desk, by Mrs. FEINSTEIN, relating to transfer of property to the city of Downey, CA. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Missouri [Mr. BOND], for Mrs. FEINSTEIN, proposes an amendment numbered 5199.

Mr. BOND. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 104, below line 24, add the following:

SEC. 421. (a) Subject to the concurrence of the Administrator of the General Services Administration (GSA) and notwithstanding Sec. 707 of Public Law 103-433, the Administrator of the National Aeronautics and Space Administration may convey to the City of Downey, California, all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately 60 acres and known as Parcels III, IV, and VI of the NASA Industrial Plant, Downey, California.

(b)(1) DELAY IN PAYMENT OF CONSIDERATION.—After the end of the 20-year period beginning on the date on which the conveyance under subsection (a) is completed, the City of Downey shall pay to the United States an amount equal to fair market value of the conveyed property as of the date of the conveyance from NASA.

(2) EFFECT OF RECONVEYANCE BY THE CITY.—If the City of Downy reconveys all or any part of the conveyed property during such 20-year period, the City shall pay to the United States an amount equal to the fair market value of the reconveyed property as of the time of the reconveyance, excluding the value of any improvements made to the property by the City.

(3) DETERMINATION OF FAIR MARKET VALUE.—The Administrator of NASA shall determine fair market value in accordance with Federal appraisal standards and procedures.

(4) TREATMENT OF LEASES.—The Administrator of NASA may treat a lease of the property within such 20-year period as a reconveyance if the Administrator determines that the lease is being used to avoid application of paragraph (b)(2).

(5) DEPOSIT OF PROCEEDS.—The Administrator of NASA shall deposit any proceeds received under this subsection in the special account established pursuant to section 204(h)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485(h)(2)).

(c) The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Administrator. The cost of the survey shall be borne by the City of Downey, California.

(d) The Administrator may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Administrator considers appropriate to protect the interests of the United States.

(e) If the City at any time after the conveyance of the property under subsection (a) notifies the Administrator that the City no longer wishes to retain the property, it may convey the property under the terms of subsection (b), or, it may revert all right, title, and interest in and to the property (including any facilities, equipment, or fixtures conveyed, but excluding the value of any improvements made to the property by the City) to the United States, and the United States shall have the right of immediate entry onto the property.

Mr. BOND. We have no objection.

Ms. MIKULSKI. No objection.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 5199) was agreed to.

Mr. BOND. Mr. President, I move to reconsider the vote.

Ms. MIKULSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 5188, AS MODIFIED

Mr. BOND. Mr. President, I ask unanimous consent the Bennett amendment, No. 5188, previously adopted by the Senate, be modified by striking out the sum $755,573 and inserting therein $464,442, as shown in the revised amendment now sent to the desk.

The PRESIDING OFFICER. If there is no objection, it is so ordered.

The amendment (No. 5188), as modified, is as follows:

On page 27, line 19, strike "$969,000,000" and insert "$969,464,442".

On page 29, line 5, strike the period, and insert a colon and the following: "*Provided further*, That of the total amount provided under this head, the Secretary shall provide $464,442 to the Utah Housing Finance Agency, in lieu of amounts lost to such agency in bond refinancings during 1994, for its use in accordance with the immediately preceding proviso."

AMENDMENT NO. 5200

(Purpose: To make an amendment relating to mortgage insurance)

Mr. BOND. Mr. President, I send to the desk, on behalf of Senator MCCAIN, an amendment relating to FHA insurance for large FHA projects. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Missouri [Mr. BOND], for Mr. MCCAIN, proposes an amendment numbered 5200.

Mr. BOND. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in title II of the bill, insert the following new section:

SEC. 2 . MORTGAGE INSURANCE.

(a) None of the funds appropriated under this Act may be used to give final approval to any proposal to provide mortgage insurance having a value in excess of $250 million for any project financing for which may be guaranteed under section 220 of the National Housing Act (12 U.S.C. 1715K), unless the Secretary has transmitted to the President pro tempore of the Senate and the Speaker of the House the Secretary's justification for such guarantee and no final approval shall be given until the justification has laid before the Congress for a period of not less than 30 days.

Mr. MCCAIN. Mr. President, I had intended to offer an amendment which would have stopped the Federal Housing Authority from using taxpayer dollars to guarantee mortgages for luxury housing developments, targeted to families earning over $100,000 per year.

The Department of Housing and Urban Development is processing an application from a team of developers, headed by the venerable Donald Trump, to obtain Federal Housing Authority mortgage guarantees for their luxury apartment development in Manhattan known as Riverside South.

The HUD program to which Mr. Trump and his associates are applying for assistance is intended to promote development within urban renewal areas. To help qualify for the aid, Mr. Trump's group has pledged to reserve 20 percent of the units for low- and moderate-income residents.

The issuance of the Federal mortgage guarantee and the 20 percent low-income reserve will entitle Mr. Trump and his partners to a vast array of municipal tax benefits, which one group calculates to be in the range of nearly $4.5 million per "needy" individual assisted—not exactly what most Americans would consider cost-effective use of Government assistance.

I certainly have nothing against luxury apartments nor do I have anything against very successful project developers, including Mr. Trump. I do object, however, to asking the taxpayer to bear the risk of a development for one of the wealthiest entrepreneurs in the country, to help finance a project that will predominantly benefit upper income Americans.

I do not know how many similar projects are in the pipeline but they should not be approved.

If this particular mortgage guarantee is approved, taxpayers will be on the hook for over $350 million. They will take this enormous risk—the largest ever in the history of the program—to help provide housing, in some instances, for people who earn an annual income of over $200,000 per year. the average apartment in the Riverside South project will be targeted to families who earn in excess of $100,000.

I want to stress, the FHA program tapped to guarantee the success of Riverside South and its financiers is designed to promote vital urban renewal.

I am not sure that downtown Manhattan is among our highest urban renewal priorities. Harlem, South Chicago, South Central Los Angeles, and South Phoenix come to mind as needier priorities. Congressman NADLER who represents the area in the House, and who is a member on the other side of the aisle, does not consider the area around the development site to be blighted and he opposes the project. I am just not sure that Manhattan is particularly lacking the means to undertake urban renewal activities at its own expense.

The very simple premise is that we can and should focus our scarce Federal housing dollars, including loan guarantees, on projects that are primarily targeted to the needy in the most seriously depressed areas.

Moreover, the Donald Trumps of the world can more than afford to bear the risk of their endeavors, and should not be indemnified with taxpayer dollars. Quite to the contrary, scarce Federal housing resources should be used to maximize help to those who truly need assistance. I understand this amendment would be objected to.

In order to accomodate the leader's desire to finish the bill in a timely manner, I've offered an alternative that will ensure that should HUD decide to approve the Riverside South project or any other project over $250 million, Congress will at least have the opportunity to act to stop it if we decide that the risk is too much or otherwise not in the public interest. Under the amendment Congress will have 30 days to stop the approval before it can become effective.

Mr. BOND. There is no objection to the amendment on this side.

Ms. MIKULSKI. No objection.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 5200) was agreed to.

Mr. BOND. Mr. President, I move to reconsider the vote.

Ms. MIKULSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 5201

(Purpose: To provide supplemental appropriations for veterans compensation and pensions for fiscal year 1996)

Mr. BOND. I send an amendment to the desk relating to an increase in the amounts for compensation and pensions of $100 million for the Veterans Administration and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Missouri [Mr. BOND], for himself and Ms. MIKULSKI, proposes an amendment numbered 5201.

Mr. BOND. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 105, after line 2, insert:

DEPARTMENT OF VETERANS AFFAIRS

VETERANS BENEFITS ADMINISTRATION

COMPENSATION AND PENSIONS

For an additional amount for "Compensation and Pensions", $100,000,000, to be made available upon enactment of this Act, to remain available until expended.

Mr. BOND. Mr. President, this amendment provides supplemental appropriations for fiscal year 1996 for VA compensation and pensions. The department has just, today, notified our staffs that they anticipate being short $100 million in this current fiscal year for compensation. Without this supplemental, checks for about 2 million veterans would be delayed for a week until the start of the new fiscal year. It is supported on this side.

Ms. MIKULSKI. No objection.

The PRESIDING OFFICER. If there is no objection, the amendment is agreed to.

The amendment (No. 5201) was agreed to.

Mr. BOND. Mr. President, I move to reconsider the vote.

Ms. MIKULSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GRAHAM. Mr. President, I am pleased that once again the Senate has chosen to continue our Nation's commitment to the future through the exploration and study of the exciting frontier of space. No one can predict the outcome of our investment in NASA, the space program, and the international space station; but we must continue to push forward in our pursuit of knowledge. Generations to come will benefit from the knowledge and experience gained from the investment we have made, and continued exploration of space will present many more opportunities to learn.

First, the space program will provide significant contributions not only to Americans, but people all around the world. We have already seen results of space-related research in life sciences, and the potential for expansion and development is virtually limitless. The discovery of possible life on Mars is a very exciting development for all mankind, and highlights the possibilities that exist if we continue to encourage and support our curiosities about the universe.

Second, our Nation's leadership role in high technology research and development must be maintained and enhanced. The aerospace industry is a significant area of America's international competitiveness. Support of our space program is essential to our future position as the world leader in high technology aerospace sciences.

Third, projects such as the international space station help to continue and expand the cooperation among the nation's of the world. Our collaborative efforts with the Europeans, Japanese, and Russians only serve to increase stability and strengthen our relations. Our space program enables us to exchange exciting ideas with the world community, and accelerate the pace of our own technology and space exploration.

Mr. President, I believe that these are very compelling reasons for continued support of our space program. NASA deserves our support. Congress and the administration should provide the appropriate resources needed for NASA to effectively and efficiently manage the space program. We must invest in our future, and invest in ourselves.

Mr. BYRD. Mr. President, I commend the efforts of the subcommittee chairman, Senator BOND, and the ranking minority member, Senator MIKULSKI, in bringing H.R. 3666, the fiscal year 1997 VA/HUD and Independent Agencies Appropriation Bill to the Senate expeditiously. They have done their best to craft a balanced bill within the discretionary funding allocation they were given. While the VA/HUD Subcommittee received an allocation that is $100 million in budget authority above the House allocation, the discretionary allocation for this subcommittee is nevertheless $3 billion below the President's request. Having to work within that very constrained level of funding, Chairman BOND and Senator MIKULSKI have done a remarkable job in funding the many important departments and agencies under the subcommittee's jurisdiction; from the Department of Veterans Affairs to NASA to HUD, to NSF, to FEMA, to EPA, and a number of other Federal agencies.

I also commend the chairman and ranking member of the subcommittee for their attempts to keep this bill free of the controversial riders and significant new legislative language that made this such a difficult bill during the fiscal year 1996 process.

In addition, Mr. President, I express my gratitude to the chairman of the subcommittee, Senator BOND, for his support of a very important amendment, which I co-sponsored. This initiative provides for a 1-year extension of the authorization of the Federal Flood Insurance Program, which is administered by the Federal Emergency Management Administration. It will prevent disruption in the Federal Flood Insurance Program—which provides affordable insurance to residents of high-risk areas—ensuring that FEMA can enter into new flood insurance contracts and can renew existing contracts throughout the next year. For states like West Virginia, where the topography makes a great many communities vulnerable to flooding, but the high price of private flood insurance often places it out of reach of families, residents rely on the Federal Flood Insurance Program. Again, I thank the chairman for his attention to this important program.

Finally, the staff of the subcommittee—Sally Chadbourne and Liz Blevins for the minority, and Stephen Kohashi, Carrie Apostolou, and LaShawnda Leftwich for the majority—are to be commended for their excellent work over the past weeks and months on this very important bill.

ENVIRONMENTAL PROTECTION

Mr. KERRY. Mr. President, I would like to reflect on the provisions of this bill that fund the Environmental Protection Agency [EPA] and the Council on Environmental Quality [CEQ] for fiscal year 1997.

With regard to the EPA, this bill is a vast improvement over the 1996 bill reported by the Appropriations Committee last year. It is welcome, indeed, that this bill reached the Senate floor without the antienvironmental legislative riders which plagued the 1996 Senate bill. These riders—which the Washington Post dubbed the "riders from hell" included legislative provisions which would have prohibited the EPA from implementing provisions in key environmental statutes such as the Safe Drinking Water Act and the Clean Water Act and would have eliminated EPA's role in issuing permits to fill wetlands.

In addition, compared to the severe budget cuts made to the EPA's budget request for fiscal year 1996, this appropriations bill certainly is preferable; it is just 6 percent below the President's requested level. Nonetheless, 6 percent of the EPA budget is over $425 million—with a disproportionate percentage coming from the EPA operating budget which includes management and oversight for standards-setting and enforcement. We must realize that such a reduction does not come without a significant loss of capability for the environmental protection efforts of this vital agency.

I fully support the President's funding request for the EPA—which includes his request to provide $100 million for the Boston Harbor cleanup project. In addition, I am disappointed that the committee cut by 86 percent from the President's request and 76 percent from last year's level funding for the Environmental Technology Initiative and made deep cuts in EPA's climate change program. I greatly regret this bill does not contain the President's levels of support and that there are sufficient Republican votes to prevent passage of amendments that would raise the bill's appropriations levels for these items.

As the House and Senate begin meeting in conference to work out their differences on the VA–HUD bill, I will continue working with the President, the subcommittee chairman and ranking member, and other conferees to secure funding for the Boston Harbor project.

While I wish to convey my concerns about the extremely serious situation facing the residents of Boston in undertaking the multibillion dollar Boston Harbor project, I want to emphasize that this project merits national attention as do other projects in cities that face requirements for similar water infrastructure improvements to comply with federal mandates.

Mr. President, the Boston Harbor project is a massive undertaking which will provide water and sewer services to over 2.5 million people in 61 communities with a total cost, including the combined sewer overflow (CSO) and capital cost improvements, of over $5 billion. The sewage treatment plant is being built under a Federal court-ordered schedule that requires completion by 1999.

When the Clean Water Act was originally enacted, Congress acknowledged

the great importance of the Federal role in cleaning the water we drink and use for so many other purposes. It did so by providing Federal support of 50 to 90 percent of the funding for projects on the scale of the Boston Harbor project. The goals of the Federal Clean Water Act are laudable and the environmental benefits to Boston Harbor from the initial water infrastructure improvements are already being felt in the surrounding Bay area. However, while the goals and standards of the Clean Water Act have remained and should continue to remain intact, over the past 15 years we have seen the Federal assistance for large water infrastructure projects decline. Only approximately 20 percent of the Boston secondary sewerage treatment project costs have been paid by the Federal Government, and that is not even counting the costs of the combined sewer overflow and other improvements that will be required in the future.

Let me also say that the Harbor cleanup is not a partisan issue. The Clinton administration each year has included $100 million in its budget request, as did the Bush administration before it. I hope the Congress will take this same bipartisan approach and will appropriate $100 million for the project.

I also would like to comment on the importance of funding the Council on Environmental Quality. There are those in the Senate who do not realize the great value of CEQ to the American people.

Since its inception in 1971, CEQ has played the key role of arbiter of environmental policy conflicts among Federal agencies. Most recently, CEQ coordinated the administration's support for and contributed to the passage of the Safe Drinking Water Act reauthorization legislation and the Food Safety bill.

The President and his administration advocate sustainable environmental policies that enhance economic growth. The Vice President, as charged by the President, has led an effort under the National Performance Review to streamline regulations, remove redtape, and reward efficiency, compliance, and innovation by industry. With a very limited budget, CEQ has been and remains a cost-effective and resourceful contributor in these endeavors.

The Henry M. Jackson Foundation's 1995 report states that the "* * * CEQ has never been more needed. The easy environmental problems are resolved. Now the more difficult business begins of seeing to it that governmental efforts produce results in an economically efficient manner and not just greater bureaucracy, waste and frustration."

CEQ provides an invaluable public service and the limited Federal resources dedicated to its functions are well spent. I compliment the committee on providing adequate funding for these activities.

After the dark nights of 1995 and early 1996, we have emerged to find greater reasonableness in the environmental funding and policy actions of the Republican congressional majority. Despite the significant differences that still exist between our views of the level of environmental protection activities the Federal Government should undertake, we are close enough to compromise.

I compliment and thank the chairman and ranking member and their staffs for their diligent efforts to bring this bill before the Senate, and urge that they push as hard as possible for the highest achievable level of funding for environmental programs during the conference committee with the House.

Mr. FEINGOLD. Mr. President, I rise today to express my concern with language that appears in the committee report on the fiscal year 1997 VA–HUD appropriations bill.

Last year, when we debated the fiscal year 1996 version of this legislation, I and the junior Senator from Illinois Senator MOSELEY-BRAUN, offered an amendment to strike a provision in that bill that would have effectively barred HUD from investigating complaints of discrimination in the sale of property insurance.

Mr. President, this issue, commonly known as insurance redlining, is nothing new. Redlining derives its name from the practice of literally drawing red lines around certain minority and low-income neighborhoods and treating the residents of those neighborhoods differently. In the case of insurance redlining, agents refuse to sell homeowners policies in these neighborhoods, or if they do sell policies, they are policies that provide significantly less coverage than a policy that might be sold for a similar house in a more upscale neighborhood.

The ramifications of reducing access to affordable and adequate homeowners' insurance have proven severe for urban areas with large minority communities. As we all know, without property insurance an individual cannot obtain a home loan. And without a home loan, an individual cannot obtain a home. Thus, refusing to provide property insurance to an individual because he or she lives in a predominantly minority community is a clear violation of the civil rights protections of the Fair Housing Act.

My interest in this issue grew out of widely-reported redlining abuses in the city of Milwaukee, WI, where it was well documented that insurance redlining was occurring on a widespread basis. I was deeply concerned that this sort of documented discrimination was occurring not only in my home State, but apparently in many others as well, including Illinois, Missouri, and Ohio.

Early in 1995, as well as in the 103d Congress, I introduced legislation that would have required insurance companies in our Nation's largest urban areas to collect and report certain information about their underwriting practices to the Department of Housing and Urban Development. This information, including the number and type of policies written, where such policies are written, and certain loss claims data, would have then been made available to State regulators, civil rights organizations, and other groups interested in combating property insurance discrimination.

Mr. President, it is important not to forget who these redlining victims are—they are hard-working Americans, who have played by the rules and are trying to simply buy a home. They are trying to bring a sense of stability and vitality to their families and their communities.

Unfortunately, as happened in Milwaukee, they often run into a brick wall of ignorance and injustice. The pattern of discrimination in Milwaukee led seven Milwaukee residents to join with the NAACP and file suit against the American Family Insurance Co. An unprecedented and historic out-of-court settlement was reached in this case between the parties where the insurance company agreed to spend $14.5 million compensating these and other Milwaukee homeowners who had been discriminated against, as well as for special housing programs in the city of Milwaukee.

But for those of my colleagues who might think such discrimination in the insurance market is limited to Milwaukee, WI, I assure you that is not the case. Extensive studies conducted by consumer and civil rights organizations, as well as a recent study conducted by the National Association of Insurance Commissioners, have found insurance redlining to be a widespread phenomenon, national in scope. Strong evidence of property insurance discrimination has been reported in cities across the country, including St. Louis, Chicago, New Orleans, Kansas City, Detroit, Dallas, and many others.

Mr. President, there is ample reason to believe that insurance redlining does occur, it occurs all across this country, and we should be taking steps to enhance the government's ability to combat this form of discrimination.

Unfortunately, we're not taking those steps forward. And last year, the Appropriations Committee, which to my knowledge had not held a single hearing on this issue, sought to prohibit HUD from expending funds on the adjudication of property insurance discrimination complaints.

The provisions in that bill were a direct attempt to stop HUD from investigating complaints of discrimination under the Fair Housing Act. HUD would have been barred from spending

any money investigating any complaints of insurance redlining. They would not have been allowed to investigate the over 10,000 property insurance complaints that are filed with HUD each year.

Thankfully, when it became clear that there was a bipartisan majority in favor of protecting our civil rights laws, our amendment was agreed to and the language was stricken from the bill.

Although this year's VA-HUD bill does not include this language restricting HUD's enforcement of our fair housing laws, the committee report does include some language that I believe is rife with inaccuracies and mischaracterizations.

The report language claims that the Fair Housing Act does not say one word about property insurance. The language states that "neither it [the FHA] nor its legislative history suggests that Congress intended it to apply to the provision of property insurance". It is true the original Fair Housing Act does not address property insurance. But as a result of the Fair Housing Act Amendments of 1988—signed into law by President Reagan—HUD promulgated regulations that specifically placed property insurance under the umbrella of the Fair Housing Act. These regulations were promulgated by the Bush administration.

Let me repeat that: If anyone is under the impression that HUD's involvement in combating property insurance discrimination is a Clinton administration initiative, that is categorically wrong. The regulations were the result of a law that passed Congress with strong bipartisan support and was signed into law by President Reagan. The regulations were promulgated by the Bush administration.

So let's set aside the faulty assertion that HUD's role in enforcing the Fair Housing Act as it applies to property insurance is some new effort to expand the Federal Government regulatory powers over a particular industry.

The supporters of this new language also say that regulating the insurance industry is the sole domain of the States as mandated under the McCarran-Ferguson Act. This, Mr. President, is a diversionary tactic. This is not an issue of regulating the insurance industry. The States are the regulators of the insurance industry. This is an argument about whether the Federal Government has the ability to enforce the civil rights of those who have been discriminated against when they are attempting to purchase a home.

This argument also fails to recognize that virtually every Federal court that has ruled on this issue, including the Sixth Circuit Court of Appeals in Nationwide Insurance Co. versus Cisneros, and the Seventh Circuit Court of Appeals in NAACP versus American Family Insurance, have held that the Fair Housing Act applies to property insurance and that HUD was legally authorized to enforce the FHA as it relates to homeowners insurance. Moreover, the Supreme Court has specifically refused to review these cases.

There is clearly another attempt to undermine HUD's efforts to do its job. Over the last several years, time and time again, HUD has uncovered incidents and patterns of discrimination in the sale and availability of homeowners insurance. And that is precisely why we are debating this issue today. It is because HUD has been too effective in enforcing our civil rights laws.

Look at last year's settlement between American Family Insurance Co. and the people of Milwaukee. And just weeks ago, it was announced that State Farm Insurance Co., long under investigation by HUD for property insurance discrimination, had agreed to completely restructure their underwriting procedures, add new sales and service centers in urban communities, and invest over $1 million in first-mortgage financing in urban Toledo, OH.

As I have said repeatedly in the past, I do not mean in any way to throw a blanket indictment at the insurance industry. I know many individuals in my home State who work in the insurance industry, and it is my firm belief that the vast majority of those individuals are decent, hard-working Americans who would join with myself and others in condemning this sort of bigotry and discrimination. Unfortunately, it is evident that these sort of abuses do occur, and the Federal Government must do all it can to aggressively enforce the Fair Housing Act.

As was demonstrated last year and in years past, this is not an inherently partisan issue. This Congress has in fact, demonstrated time and time again that it will stand up to mindless bigotry and discrimination in whatever form it might take. The language contained in the committee report represents a threat to a longstanding bipartisan commitment to protecting and enforcing civil rights in this country and battling the various forms of bigotry and discrimination that continue to pervade this Nation. The committee report language, obviously, does not have the force of law and it should be disregarded.

Ms. MOSELEY-BRAUN. Mr. President, the VA–HUD bill currently under consideration contains report language stating that HUD's property insurance practices duplicate State regulation of insurance and that HUD's activities in this area create an unwarranted and unnecessary layer of Federal bureaucracy. Mr. President, now is not the time to retreat from our commitment to fair housing opportunities for all. Congress made its decision on this issue last year when I offered an amendment which was adopted to ensure that the Government would remain able to combat discrimination in the issuance of property insurance.

In 1988, Congress gave HUD the authority to promulgate regulations to enforce the Fair Housing Act. At that time, HUD, under then-President George Bush and HUD Secretary Jack Kemp, issued a regulation which defined conduct prohibited under the Fair Housing Act to include: "refusing to provide property or hazard insurance for dwellings, or providing such insurance differently, because of race, color, religion, sex, handicap, familial status, or national origin."

The reason for this prohibition is simple. Without property insurance, no lender will provide a mortgage. Without a mortgage, few individuals can buy a house. Denial of property or hazard insurance impairs the ability of an individual to buy their own home, in a very real and concrete way.

Mr. President, discrimination in the issuance of property insurance is not a minor problem. Recent investigations conducted in 9 different cities found that discrimination against African-Americans and Latino neighborhoods occurred more than 50 percent of the time. In my hometown of Chicago, discrimination occurred 83 percent of the time. Investigators found that minority homeowners were routinely charged more money for less coverage, were not offered the best insurance policies, and were even denied any coverage at all.

Consider a case that the Department of Justice settled last year against a major insurance company for its conduct in Milwaukee, WI. The Department alleged that the company routinely sold more costly, less comprehensive policies to minorities, failed to return phone calls or keep appointments with black customers, avoided entire neighborhoods with high minority populations, and subjected applications from black neighborhoods to greater scrutiny. One potential black customer was told that "you people make phony claims," and a white manager was instructed in writing to quit writing all those blacks.

Despite opponents arguments to the contrary, HUD's enforcement of the Fair Housing Act does not involve regulation. Regulation of rates, or other aspects of the insurance business, is a State responsibility. What HUD is obligated to do, and what it has done, is enforce civil rights laws that prohibit discrimination. No one has offered any valid explanation to show why this one particular industry should be exempted from antidiscrimination laws.

This fact is, Congress has consistently rejected the argument that the Federal Government should leave the enforcement of civil rights to the exclusive jurisdiction of the States. The Federal Government has a very real interest in ensuring that effective remedies for acts of discrimination are

available to all people. While States do have laws prohibiting discrimination in insurance, the Fair Housing Act provides a wider array of remedies, including a private right of action, than those provided by most States.

There is more uniting America, than dividing us. We share a common dream—the American dream. We all want to raise our children in safe communities, and provide a home for our families. It's because of the American dream that we have to keep raising these issues.

Housing discrimination and segregation undermine the health and vitality of American communities—our cities, suburbs and rural towns. It denies families full and free choice about where to live, send their kids to school, and where to work.

As a Chicago Tribune editorial said,

We all pay a price for racial discrimination. Those who are discriminated against pay the most. But those who do the discriminating, or condone it, eventually reap what they sow in higher taxes and lowered economic horizons. Experience teaches that the cost of racial segregation reaches beyond the inner city. We all pay the price for the poverty, joblessness, and crime that fester there. In one respect, wealthier taxpayers pay the most.

The American people believe in fairness. They certainly don't believe in a special-interest exemption to the civil rights laws. Yet that is exactly what we are approaching if Congress condones report language indicating a concern about HUD's use of funds for other fair housing activities aimed at property insurance practices.

Federal efforts to combat discrimination are vital. Congress would be setting a bad example if it retreats from its commitment to fairness and nondiscrimination in fair housing laws. Continued enforcement of the Fair Housing Act is key.

MISSION TO PLANET EARTH

Mrs. BOXER. Mr. President, I rise today to ask if the distinguished chairman of the appropriations subcommittee on VA, HUD and Independent Agencies, Senator BOND, and the distinguished ranking member, Senator MIKULSKI, would yield to a question regarding funding for NASA's Mission to Planet Earth Program.

Mr. BOND. We would be happy to yield to the Senator from California.

Mrs. BOXER. Thank you. I first want to thank the chairman and the ranking member for their work to restore cuts in the House bill to the Mission to Planet Earth, the civilian scientific mission to study the environment of this third planet from the Sun. The Senate bill provides $100 million more for NASA than provided in the House bill and restores this critical program for studying global climate change. As the Senate committee report points out, this program also encompasses disaster prediction and mitigation. This element is very important to my State of California.

Technological growth and the experience of repeated earthquakes in California have helped expand our ability to provide important data for detailed mapping of earthquake faults. The California Seismic Safety Commission has recommended a research and technology initiative whereby space technology may be used to reduce the risk from major California earthquakes. NASA has the unique ability to provide orbital photography, remote sensing data such as radar, and advanced optics and radio wave technology under the Mission to Planet Earth to assist California's earthquake risk reduction efforts. I understand that Missouri's Office of Emergency Services is interested in this effort, as well.

Accelerating California's seismic hazards identification programs would go a long way toward providing earth sciences information in a form that is useful to builders and local government planners so that we can genuinely manage seismic risk and reduce economic damage and human casualties from these natural disasters.

I ask the chairman and ranking member if it is their understanding that a portion of the funds provided to the Mission to Planet Earth could be made available for a cooperative program between the Johnson Space Center and the California Seismic Safety Commission and other seismically active States, and if such a program would be consistent with the goals of the Mission to Planet Earth?

Mr. BOND. I thank the Senator from California. The committee encourages NASA to collaborate with other Federal agencies and private industry to pursue opportunities for public-private partnerships to apply Mission to Planet Earth data for environmental, agricultural, transportation, fisheries and forestry management, as well as disaster prediction and management. I believe a cooperative program between NASA's Johnson Space Center and the State of California and other seismically active States, such as my own State of Missouri, would be an excellent example of this committee's intent.

Ms. MIKULSKI. The cooperative venture that the Senator from California has described is clearly the kind of information that we intend the Mission to Planet Earth to provide for our local officials to make real use of this invaluable data from space. We should support hazard reduction programs whenever we can in order to hold down cost of disaster in lives and property in the future.

THE TRANSFER OF SPACE STATION RELATED BIOTECHNICAL ACTIVITIES

Mrs. FEINSTEIN. Mr. President, I am concerned about a number of highly qualified persons who work at NASA's Ames Research Center in California. It is my understanding that NASA is considering a layoff of these highly trained individuals and sending the technologies for the space station program on which they are working—the Centrifuge Facility—to the Japanese space agency NASDA. The Centrifuge Facility, and its related programs, have always been a part of the United States' contribution to the International Space Station. I simply do not understand why NASA would consider giving this work to the Japanese when they have significantly less experience in the life sciences area.

I say to the Chairman that we are both strong supporters of the International Space Station Program and want to see it become the premier microgravity research center of the world. This can only be accomplished if the best talent is focused on every sector of the program. To assign these biotechnology activities to anyone other than the individuals at the Ames Research Center—many of whom invented these technologies in the first place—makes little sense. Can he assure me that Ames Research Center will remain the center for these critical space station related biotechnical activities?

Mr. BOND. I appreciate the senior Senator from California raising the very important issue of the development of research capabilities and instruments for use on the space station. As the Senator indicates, the space station program will draw upon a wide variety of disciplines and technical capabilities of NASA, as well as other research institutions here in the United States and those of our international partners. With such a widely distributed effort, involving so many different parties, it is critical that we demand of NASA a rigorous system of utilizing the most capable entities available to as to yield the highest quality research for our significant investment in this program.

The Senator is justifiably proud of the biotechnology capabilities of Ames Research Center, and I certainly agree that shifts in responsibility for important research tasks be very sensitive to issues of technical merit and capacity. I am aware that NASA has under consideration a shift in responsibility for the centrifuge facility which is a matter of significant concern to me. The Congress has long supported retention of the centrifuge in the face of repeated past proposals to eliminate this important facility. The centrifuge is crucial to life science studies since it provides a control for experiments in the microgravity environment of the space station.

Unfortunately, as the Senator from California knows, NASA has requested authority to shift funding for the current fiscal year, and for the next 2 years, within the $2.1 billion annual cap. The cost of fabricating components of the overall spacecraft such as the nodes are requiring greater investment at this point in the development

program to maintain deployment schedule goals. These funding shifts from space station research hardware development, to spacecraft development, require rescheduling and optimization of space station research program plans in order to avoid cost overruns and minimize adverse program impacts.

We are evaluating these requirements and will be proposing changes in conference to the NASA appropriations accounts to enable the agency to make the most effective use of available funding. We extensively will examine the agency proposals to make sure that such authorities will retain critical research capabilities within a workable overall development schedule. I want to assure her that we will all participate in evaluating the merits of the agency's proposals, and I certainly expect NASA to consult fully with all affected parties prior to making significant program changes.

Ms. MIKULSKI. I agree with the Senator from California that this biotechnology capability should remain within the United States. We have the experience that Japan cannot match in this arena and should not relinquish that capability.

FUNDING FOR OKLAHOMA CITY BOMBING RELIEF

Mr. NICKLES. It has now been more than a year since the tragic and senseless bombing of the Murrah Building in Oklahoma City. Last year, this Congress, with the support of the administration, approved $39 million in disaster relief specifically for the recovery of Oklahoma City. This funding was for community development assistance to repair public and private facilities damaged by the blast. For that I, along with the people of Oklahoma, am grateful.

In the aftermath of this disaster, a full evaluation of its impact on downtown Oklahoma City indicates that if the area is to adequately recover, additional Federal assistance is needed. To this end, I asked the Appropriations Committee in May to consider supplementing last year's funding to cover additional damage claims plus loan and grant funds to assist businesses as they re-enter the damaged area. The administration, while not officially requesting these funds, has indicated its support for the additional funding during recent discussions with Oklahoma City officials.

The distinguished chairman of the subcommittee has worked with me in trying to accommodate this request. Can he assure me that he will continue this cooperative effort to meet these ongoing needs arising from the bombing?

Mr. BOND. I can assure my friend and colleague from Oklahoma that the committee will continue to work with him and the people of Oklahoma in recovering from this terrible tragedy. As the Senator has noted, the committee was pleased to provide $39 million in community development funds last year to aid in the restoration of downtown Oklahoma City. In addition, the emergency supplemental appropriation last year provided $40.4 million for the replacement of the Murrah Federal Building. Additional funds have also been made available administratively through several government agencies, particularly the Federal Emergency Management Agency.

Also, as can certainly be understood, only a portion of the $39 million appropriation from last year has been obligated by the city. It takes time to assess the vast damage that occurred and award the contracts for repair. Further, compliance with Federal regulations, such as prevailing wage statutes, adds to the complexity of awarding contracts. Therefore, it takes time to fully obligate these funds.

Once these funds are fully expended, I assure the Senator from Oklahoma that I will reassess the remaining assistance needs for the city. I also understand that commitments have been made by the administration to Oklahoma City officials to furnish currently appropriated funds for the relief effort. FEMA has indicated that $2 million will be made available from its public assistance program for infrastructure repair. Further, the administration has agreed to make available $2.1 million for the purchase of land for a Federal campus for housing several Federal agencies. Both of these items were to be paid for by the emergency appropriation. This will enable the city to repay additional damage claims from this emergency supplemental.

Let me state to the Senator, however, that no budget request from the administration has been received for additional funds. Such a request would show what offsets, if any, the administration intended to utilize to pay for these added funds. It would also indicate whether or not this was an emergency designation, or if it intended to use reprogrammed funds from existing appropriations.

I commend the Senator for his ongoing commitment to ensure that Oklahoma City, and indeed the entire State of Oklahoma, recovers from this terrible tragedy. I fully intend to work with the Senator, the administration, and the city of Oklahoma City to meet any need for further assistance.

HUD'S AUTHORITY REGARDING PROPERTY INSURANCE

Mr. WELLSTONE. Mr. President, when the Senate considered the fiscal year 1996 VA–HUD appropriations bill last year, I was a proud cosponsor of the Feingold/Moseley-Braun amendment, which deleted language which would have restricted the use of HUD funds in the investigation of discrimination in homeowner's insurance. This year, in the Senate committee report of the fiscal year 1997 VA–HUD appropriations bill, there is once again language recommending that HUD be prohibited from enforcing protections against property insurance redlining. In fact the committee report calls HUD's activities related to property insurance "duplicative of state regulation of insurance * * * creat(ing) an unwarranted and unnecessary layer of federal bureaucracy."

I want to make it very clear, as I did last year, that I believe the U.S. Senate should not set the precedent of exempting property insurance from fair housing laws. If HUD is not able to investigate claims of property insurance redlining, Americans might be kept from buying houses because they might not be able to get homeowner's insurance. I believe that all Americans have the right to homeowner's insurance, regardless of race or ethnicity or the neighborhood in which they live.

Mr. President, once again, I will remind you that we have been through this before. The insurance industry claims that this type of denial of coverage is not taking place, but HUD reports that it continues to process and settle thousands of claims of property insurance redlining. Unfortunately, the shameful practice of denying coverage to Americans because of the neighborhood they live in or the color of their skin is still practiced today.

If HUD is barred from funding private fair housing groups investigating claims of property insurance redlining, Americans will be denied the protection of a basic civil rights law. I do not think that insurance companies should be exempt from property provisions in the Fair Housing Act. HUD's enforcement of civil rights protections does not undermine State insurance regulation, rather, Federal fair housing protections ensure that homeowners or potential homeowners do not encounter discriminatory practices in their effort to obtain homeowner's insurance. In this campaign season, many have voiced their desire to help all Americans get their piece of the American dream. Mr. President, this is a perfect place for us to protect Americans who are trying to purchase a home from discrimination.

TRAVIS VA HOSPITAL

Mrs. FEINSTEIN. Mr. President, I rise today to express my strong disappointment that funding for the Travis VA Hospital was not included in the VA, HUD, and independent agencies appropriations bill for fiscal year 1997. There are currently 450,000 veterans in northern California who have no local veterans hospital.

Let me briefly describe the continuing situation for these veterans seeking inpatient health services. A veteran in northern California must drive an average of 4 to 5 hours, sometimes as many as 8 hours, to get to a VA inpatient facility. Once the veteran is released from the hospital, he and his

family must drive back and forth from home to the VA facility again for checkups.

These hardships are having a detrimental effect on the care these veterans receive. The Department of Veterans Affairs own numbers show that the use of inpatient care in northern California has declined from 7,000 cases in fiscal year 1991 to 2,538 in fiscal year 1995. That is a decrease of 64 percent. With the aging population of these veterans, it is hard to believe that they do not need the health care that the Travis VA Hospital would provide.

The Clinton administration has seen the needs of these veterans and responded. The President's fiscal year 1997 budget request included $32.1 million for phase II construction at the hospital. Phase II allocation funds utility relocation, site development, and foundation and structural construction. The House of Representatives also acted to meet the needs of these veterans by funding President Clinton's request for phase II funds and by reprogramming the $25 million appropriated last year for an outpatient care facility so that they could also be used to build the hospital.

As bad as the situation has been, these veterans have been exceedingly patient. At the groundbreaking ceremony on June 2, 1994, attended by Vice President GORE, we all were optimistic that northern California's veterans would not have much longer to wait for quality health care. More than 2 years later, the plans are complete and the land is ready to begin construction of the replacement hospital. Instead, that land will remain empty, and nearly a half a million veterans will continue to be unserved.

The area that the Travis VA Hospital would serve is one of the largest, most geographically dispersed, and highly populated veterans' areas in the country. In fact, more veterans live in northern California than in 27 individual States and the District of Columbia.

I am very disappointed that the members of the Senate Appropriations Committee deleted the funding the House included for the Travis VA Hospital and turned their backs on nearly a half a million veterans by not continuing to fund the replacement VA hospital at Travis Air Force Base.

It is a sad day when the men and women who have served our country without question—and who have the right to expect their Government to fulfill its promises—are now being told "tough luck."

I appeal to my colleagues to honor the commitment we as a nation have made to our veterans when this bill is considered in conference. I pledge to continue my fight for northern California's veterans and for full funding for the Travis VA Hospital.

Mr. SIMON. Mr. President, I join my colleagues in expressing concern about language in the Appropriations Committee report on H.R. 3666, the VA, HUD, and independent agencies bill, which raises concerns about "HUD's use of funds for * * * fair housing activities aimed at property insurance practices." The report concludes that HUD's activities duplicate State regulation of insurance and violate the McCarran-Ferguson Act by "interfer[ing] with State regulation of insurance." I disagree with this view of the nature and effect of HUD's anti-discrimination activities regarding property insurance.

Republican and Democratic administrations have recognized that without non-discriminatory access to property insurance, many hard-working Americans will be denied the opportunity to own a home. The Bush administration's regulations implementing the 1988 Fair Housing Act Amendments explicitly applied the act to discrimination in access to property insurance. This interpretation has been upheld by U.S. district and circuit courts which have ruled that HUD's enforcement activities in this area do not constitute a regulation of insurance and do not conflict with the McCarran-Ferguson Act because they do not "invalidate, impair or supersede" any state laws regulating the business of insurance.

It is my expectation that nothing in H.R. 3666 or the accompanying report will be interpreted to diminish HUD's enforcement authority under the Fair Housing Act with regard to discriminatory property insurance practice.

INSURANCE REDLINING LANGUAGE

Mr. KENNEDY. Mr. President, I am heartened that, in the context of the VA–HUD appropriations bill, certain Republicans have not attempted to repeat the mistake of last year, when there was an ill-advised effort to insert a provision that would have prohibited the Department of Housing and Urban Development from enforcing the Fair Housing Act as it relates to property insurance. This provision, if enacted, would have prevented millions of Americans from pursuing the American dream of home ownership by prohibiting HUD from enforcing the Fair Housing Act as it relates to property insurance.

This effort to roll back civil rights protections in the name of regulatory and insurance reform was defeated by a voice vote, under the leadership of Senators FEINGOLD, SIMON, MOSELEY-BRAUN, and MIKULSKI. Fortunately Republicans did not attempt to include this provision in the 1997 VA–HUD appropriations bill. However, there is language in the committee report pertaining to insurance redlining which incorrectly asserts that: First, HUD lacks the authority under the Fair Housing Act to investigate insurance redlining cases; and second, insurance redlining is not covered by the Fair Housing Act.

These claims are simply wrong, Since passage of the Fair Housing Act amendments in 1988, courts have consistently held that the Fair Housing Act prohibits racial discrimination in the provision of property insurance. *Nationwide Mut. Insurance Co.* v. *Cisneros*, 52 F.3d 1351 (6th Cir. 1995); *United Farm Bureau Mut.* v. *Human Relation Comm'n*, 24 F.3d 1008 (7th Cir. 1994); *NAACP* v. *American Family Mut. Ins. Co.*, 978 F.2d 287 (7th Cir. 1992); *Strange* v. *National Mutual Insurance Co.*, 867 F. Supp. 1209 (E.D. Pa. 1994). These consistent court interpretations of the Fair Housing Act make perfect sense. If a person does not have access to homeowners insurance, buying a home would be impossible. As Judge Easterbrook, a conservative Seventh Circuit judge, observed in *NAACP* v. *American Family Mutual Insurance Co.*, "lenders require their borrowers to secure property insurance. No insurance, no loan; no loan, no house; lack of insurance thus makes housing unavailable [within the meaning of the Fair Housing Act]." 978 F.2d at 297. Overall, the case law is clear that the Fair Housing Act covers property insurance discrimination. Any assertion to the contrary is simply incorrect.

In the Committee Report, there is a claim that the McCarran-Ferguson Act prevents the enforcement of property insurance discrimination under the Fair Housing Act. This claim also ignores the case law, in which courts have consistently stated that the Fair Housing Act is not preempted by McCarran-Ferguson. *See American Family*, 978 F.2d at 293–97; *Cisneros*, 52 F.3d at 1363; *United Farm Bureau*, 24 F.3d at 1016. Thus, it is incorrect to suggest that HUD's assertion of authority in insurance redlining cases "contradicts" the McCarran-Ferguson Act.

The Fair Housing Act was intended to break down barriers of discrimination that unfairly prevented scores of Americans from securing decent and affordable housing. This discrimination comes in many forms. Insurance redlining is one such manifestation, and is a persistent problem throughout America. For example, in a recent case in Milwaukee, Wisconsin, a $14.5 million settlement was reached on behalf of a class of hundreds of African-American homeowners. A manager at the insurance company wrote to an agent who expressed a willingness to give insurance to African-Americans: "*Quit writing* to all those *Blacks*" (emphasis in original). Eliminating such discrimination is an appropriate and vital function of HUD and the Department of Justice. America cannot be America unless we eliminate all vestiges of discrimination, and I applaud Secretary Cisneros for his willingness to enforce laws banning insurance redlining.

OPPOSITION TO RESTRICTIONS ON HUD FUNDING TO INVESTIGATE INSURANCE REDLINING

Mr. BRADLEY. Mr. President, I rise in opposition to inclusion of language in the VA–HUD fiscal year 1997 Appropriations Committee Report barring

the Department of Housing and Urban Development [HUD] from using Fair Housing Initiatives Program [FHIP] funds to enforce the Fair Housing Act against insurance redlining. The language in this report is intended to deny the protection of a basic civil rights law to people subject to discrimination by a particular industry. Because insurance redlining is a reality in America, efforts to eliminate such discrimination should be aggressively undertaken. Sadly, by attempting to strip HUD of its enforcement authority, this funding restriction will allow such discrimination to flourish.

In September 1995, language prohibiting HUD from investigating insurance-related discrimination complaints was placed in the 1996 VA–HUD Appropriations bill. This language was removed before a vote on the Senate floor due to opposition from a number of Senators. Now, the committee seeks to accomplish through the back door what the Senate refused to sanction last year.

Mr. President, insurance redlining is a serious problem in this country. Recently, the National Fair Housing Alliance conducted a 3-year investigation—partially funded with $800,000 from a HUD grant awarded when Jack Kemp was HUD Secretary—using white and minority testers posing as middle-class homeowners seeking property insurance coverage. The test covered nine major cities and targeted Allstate, State Farm, and Nationwide Insurance. The homes selected were of comparable value, size, age, style, construction, and were located in middle-class neighborhoods.

The investigation uncovered the fact that discrimination against African American and Latino neighborhoods occurred more than 50 percent of the time. Astoundingly, in Chicago, Latino testers ran into problems in more than 95 percent of the attempts to obtain insurance; in Toledo, African Americans experienced discrimination by State Farm 85 percent of the time. While white testers encountered no problems obtaining insurance quotations and favorable rates, African American and Latino testers encountered the following problems: Failure by insurance agents to return repeated phone calls; Failure to provide quote information; Giving pre-conditions for providing quotes (inspection of property, credit rating checks); Failure to provide replacement cost coverage to homes of Blacks and Latinos; and Charging more money to Blacks and Latinos, while providing less coverage.

Mr. President, the results of this investigation are profoundly disturbing. Insurance redlining directly affects the ability of African Americans, Asians and Hispanics to purchase a home, because the denial of insurance results in the denial of a mortgage loan, which in turn results in the inability to purchase a home. Property insurance discrimination is illegal under the Fair Housing Act. As this country moves toward its stated ideal of a colorblind society, the effort of the committee to strip HUD of its enforcement authority and remove a whole category of discrimination—insurance redlining—from the reach of the law is not supported by judicial decisions or the language of the Fair Housing Act.

Mr. President, the report claims that HUD's assertion of authority regarding property insurance contradicts the McCarran-Ferguson Act of 1945. However, Federal fair housing laws enforce civil rights protections which do not threaten or regulate the business of providing insurance. Thus, the report's argument that enforcement of civil rights protections undermines State insurance regulation is inaccurate, and more importantly, elevates a business practice over the enforcement of fundamental civil rights.

The report further claims that the Fair Housing Act does not directly mention homeowners insurance, and therefore does not apply to the provision of homeowners insurance. However, section 3604 of the Fair Housing Act makes it illegal to "discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling or in the provision of services * * * in connection therewith. * * *" Based on the language of section 3604, Federal courts have held that homeowners insurance discrimination is within the purview of the Fair Housing Act. Indeed, in February of this year, the Supreme Court refused to entertain an appeal from a decision holding that the Fair Housing Act covers insurance.

Mr. President, under Secretary Cisneros, HUD has been an active participant in enforcing the Fair Housing Act and ensuring that property insurance discrimination ceases. The insurance industry has been fighting in court to restrict HUD's authority to enforce insurance redlining. The industry has not been successful in the judicial arena in its efforts to stop HUD's enforcement activities. Thus, the industry has now turned to Congress to restrain stepped-up Federal fair lending enforcement efforts. This effort failed last year, and there exists no legal justification for the committee to now restrict FHIP funds in the investigation of homeowners insurance redlining.

It is this Senator's view, and I believe that of many others, that this report language does not and should not reflect the view of the Senate, and that HUD should not treat this language as having the force of law.

Mr. LAUTENBERG. Mr. President, let me begin by commending both the chairman, Senator BOND, and the ranking minority member, Senator MIKULSKI, and their staffs, for their hard work on this legislation.

With the inadequate allocation given this subcommittee, they have had to make very hard choices between the competing needs for environmental protection, housing, veterans, science, and NASA, not to mention the many other agencies covered by this bill. It's a very, very difficult job.

Mr. President, as one with a strong interest in the environment, I am very pleased that the bill funds Superfund cleanup at the President's level, and exceeds the President's level for the State revolving loan funds, which are used to ensure that our water supply is clean. I also appreciate the chairman's support of the Agency for Toxic Substances and Disease Registry, which studies the health threats posed by toxic waste sites and helps to prioritize Superfund cleanups.

I also am pleased that this year we will avoid the debate on anti-environmental riders that have been pushed so hard in the past by many House Republicans.

Mr. President, although we have made great progress on EPA funding overall, I do remain concerned about the inadequate funding of research into sediment decontamination technology. This work is critical to finding affordable and environmentally benign ways of dredging many harbors that are contaminated with deadly toxics sediments.

I also am concerned that we are continuing to add duties to EPA without the accompanying resources. This budget does not provide the needed funding to implement Congress' demands for more and better risk-benefit analysis, more assistance to small business, and more consideration of stakeholders in the regulatory process. It does not provide the needed infrastructure to enhance EPA's scientific abilities. It also does not provide adequate funding to counter global warming, or for President Bush's initiative to improve the water quality of Boston Harbor.

The President's budget provided $450 million for these various programs, money that is not in this bill. As the process moves forward, I want to work with the President to add these funds for this important allocations.

Mr. President, led by NEWT GINGRICH and extremist Members of the House, this Congress has seen a massive assault on our environment. Last year, the House passed a bill to cut EPA by one-third. They have tried to tie the agency up in regulatory knots and redtape. And they have invited polluters into the back rooms to weaken environmental standards.

Mr. President, President Clinton has stood up to these extremists, and our environment will be much cleaner as a result.

However, the war over the environment is not over. Senator Dole is proposing a budget scheme that calls for

massive cuts in domestic programs. And that would mean deep reductions in environmental protection. Senator Dole also has pushed hard to undermine the ability of EPA and other agencies to protect public health and the environment.

So, Mr. President, the real battle over the environment will be fought in this November's elections.

Mr. President, let me now move beyond the environment to discuss the provisions in this bill that provide funding for housing, and for our Nation's cities.

Mr. President, I am disappointed that these programs have again been targeted for disproportionate budget cuts. I represent a State with very severe housing needs, and several depressed urban areas. And it is of great concern to me that the Congress has not made these problems a higher priority.

This bill funds HUD at $2 billion below the President's budget request and cuts spending for vital programs such as homeless assistance, the economic development initiative, and public housing modernization.

These cuts will adversely affect many of our Nation's most economically vulnerable families. And that troubles me. Just as I know it troubles many of my colleagues on both sides of the aisle.

So, Mr. President, I am concerned about many of the cuts in this bill for housing and community development. But I realize that the chairman and the ranking minority member have been dealt a terrible deck, and they've done their best in a bad situation. During last year's appropriations process, after Senate passage, additional funds were allocated for housing and environmental programs. I will work with the administration to restore these funds so that we may better address the severe housing needs of our Nation.

I want to commend both Senator BOND and Senator MIKULSKI for protecting several other important programs from funding cuts, including the Drug Elimination Program, CDBG, and HOME, each of which will continue to operate at current funding levels.

Finally, I would like to thank the chairman for his generous funding of the low-income housing preservation program. This program will help to maintain the stock of affordable housing and potentially protect thousands of families from losing their homes.

So, Mr. President, as a member of the VA/HUD and Independent Agencies Subcommittee, I will vote for this bill. It is not perfect legislation. But it is a significant improvement over some of the related legislation we've seen in the recent past.

THE NEIGHBORHOOD NETWORKS PROGRAM

Mr. JOHNSTON. Mr. President, I would like to commend the distinguished chairman, Senator BOND, and the distinguished ranking member of the VA, HUD and Independent Agencies Subcommittee on Appropriations, Senator MIKULSKI, for their guidance and cooperative efforts in bringing this bill, H.R. 3666, to the floor.

Mr. President, I rise today to bring attention to a program that is providing an indispensable service to Americans living in our Nation's troubled urban areas, in public and assisted housing. As HUD has worked to increase housing and home ownership opportunities for our citizens, it has become increasingly clear that an important aspect of insuring adequate housing is insuring that people have the skills and employment opportunities that will allow them to contribute sufficiently to their own rents and mortgages. Insuring that our people have such skills and opportunities is not only a means of improving the lives of these citizens but also helping them develop and maintain their neighborhoods and communities.

Mr. BOND. I would agree with my colleague.

Mr. JOHNSTON. The University of New Orleans has developed an entrepreneurship program designed not only to assist in the development of skills, but also to assist in the creating of individual, family, and small businesses in our inner cities. The two things go hand in hand—providing training and skills development and then seeing that there is a job in which the training skills can be used. UNO has held discussions on this program with HUD and I believe that it is the type of activity which HUD should be supporting. Consequently, I would hope that we could urge HUD to pursue this effort with UNO whether it be through the Neighborhood Networks Program or some other means.

Mr. BOND. I strongly support finding ways to encourage people to find means of self-support with a goal towards bettering their lives. This seems to me an excellent way to move people away from a state of dependence into one of independence and self-sufficiency. I agree with the Senator from Louisiana that HUD should be supportive of such programs.

Ms. MIKULSKI. I agree with my colleagues. These efforts are important as we expect a future of declining allocations. We must find ways to meet the needs of Federal programs in a balanced way. Particular attention should be paid to effective programs that give taxpayers the most bang for their hard earned buck.

Mr. JOHNSTON. I thank my colleagues.

Mr. BOND. Mr. President, I must note that our first priority for HUD is demand that it more adequately address its principal responsibilities over loan and grant programs for housing and community development. We have worked to drastically cut back on the thicket of programs that it amassed over the years, some 240 individual activities. Though terminations and by consolidating related activities in more flexible, broadly-based grant programs we are reducing burdensome paperwork requirements both for HUD and for the local administering agency. Furthermore, by granting flexibility, we hope to enable local units of government to better tailor programs to meet their specific local needs and priorities. With this orientation,we must be restrained in our appetite for endorsing new programs or initiatives or risk turning back the clock on our reforms by creating a whole new set of categorical programs and requirements.

MONTREAL PROTOCOL FACILITATION FUND

Mr. CHAFEE. Mr. President, the EPA portion of this bill includes $12 million for Agency contributions to the Montreal Protocol facilitation fund. This funding level is the same as that approved by the Congress last year, but $7 million lower than the administration's request of $19 million.

It is my understanding that the House of Representatives approved the full fiscal year 1997 administration request of $19 million for EPA's contribution to this fund. This funding is included in the EPA environmental programs and management account. If I might, Mr. President, I would like to provide some historical perspective on the Montreal Protocol facilitation fund.

The fund was created in 1990 through the London Amendments to the Montreal Protocol on Substances that Deplete the Ozone Layer. It was created to assist developing countries in their efforts to phase out ozone depleting substances. The United States agreed to participate in the fund after the Senate, on December 18, 1991, voted to approve ratification of the London Amendments. It is important to remember that the Montreal Protocol and the facilitation fund were successfully negotiated by the administrations of Ronald Reagan and George Bush, respectively.

The Montreal Protocol facilitation fund was established with the clear understanding that the problem of ozone depletion was global in nature. That understanding, and the agreement which ensued, was that the developed countries would provide technical and financial assistance to developing countries who agree to strict ozone depleting substance use reductions.

This is a pact, Mr. President, that the United States freely committed itself to. A pact which has enjoyed tremendous success with respect to reducing the use of these chemicals around the world; with respect to the promotion of American goods and services around the world; and with respect to the development of a global effort to solve a complicated environmental problem. Contributions to this multilateral fund, from nations like Japan, Germany, the United Kingdom, and

Canada, have been made at a higher rate, 85 percent, than any other United Nations trust fund.

How large is the facilitation fund? How much does the United States contribute? The total size of the fund has been set at $510 million with the U.S. share capped at 25 percent of the total, which is the U.N. standard. The current U.S. contribution is set at $38 million per year.

The problem, Mr. President, is that we have not met our obligations to the fund. At the conclusion of calendar year 1996, the United States will be approximately $27 million in arrears. Even if the full administration request for EPA and State Department contributions were to be provided for fiscal year 1997, the United States would still find itself behind in 1997 by approximately $18 million.

If the $12 million level recommended by the Senate Appropriations Committee is approved by the Senate and ultimately prevails in conference with the House, the United States would find itself $25 million in arrears. This estimate assumes that the full State Department allotment of $27.5 million will be provided in fiscal year 1997.

Mr. President, we cannot afford to fall further and further behind on this commitment. Failure by the United States to maintain this pact in the agreed-upon fashion would not only harm the progress made in this area, but would undoubtedly make negotiation of future international environmental agreements much more difficult. As such, I would request of my friend from Missouri, who will be leading negotiations with the House on this matter, that he work toward conference adoption of the House-passed funding level of $19 million for the Montreal Protocol facilitation fund.

Mr. BOND. Mr. President, I appreciate the remarks made by my colleague from Rhode Island. While I cannot guarantee the results on this or any other matter in a conference with the House, I will make sure that all conferees are aware of the Senator's strong interest in this vitally important program.

Mr. CHAFEE. I thank the Senator from Missouri and appreciate all of his good work on this bill. Mr. President, before I yield, I would like to conclude with a statement made by President Reagan on April 5, 1988, concerning the Montreal Protocol:

> The Montreal Protocol is a model of cooperation. It is a product of the recognition and international consensus that ozone depletion is a global problem, both in terms of its causes and effects. The Protocol is the result of an extraordinary process of scientific study, negotiations among representatives of the business and environmental communities, and international diplomacy. It is a monumental achievement.

Indeed it is. With that, Mr. President, I again thank the Senator from Missouri and yield the floor.

EPA RESEARCH

Mr. CHAFEE. Mr. President, in 1994, the EPA awarded the University of Rhode Island's Marine Ecosystem Research Laboratory a $1.4 million grant to examine the degree to which coastal marine areas of the United States are degraded by elevated concentrations of waterborne nitrogen. Why should this matter be studied? Why do we care if elevated concentrations of nitrogen exist in estuaries and bays? Let me provide just a few reasons.

Nitrogen concentrations stimulate the growth of marine plants such as phytoplankton and seaweed. Excessive growth of these plants often shade out and thus kill off natural sea grasses that form fish habitat, as in Chesapeake Bay. In some instances these plants sink to the bottom and decompose, thus consuming all oxygen and leading to widespread fish kills, as in Long Island Sound, Mobile Bay, and elsewhere.

Elevated nitrogen levels are also believed to be responsible for altering the species composition and biodiversity of indigenous plants, thus dramatically altering marine food chains. Some suspect links between nitrogen enrichment and toxic algal blooms and fish disease. The project undertaken in 1994 at the University of Rhode Island is designed to help scientists and policymakers better understand how coastal marine systems respond to nitrogen enrichment.

Regrettably, only two-thirds of the agreed upon project has been completed. Under the 1994 grant agreement, the University of Rhode Island was to receive $1.4 million over fiscal years 1994 through 1996. According to EPA, insufficient fiscal year 1996 resources prevent the Agency from fulfilling the third and final year's commitment of $474,000.

Mr. President, it is my belief that this important research effort warrants the very modest resources committed to it just 2 years ago. I might note that two papers submitted by the university as a result of this project have been published recently in peer-reviewed scientific journals.

Thus, it is my hope that the EPA Administrator and her Assistant Administrator for Research and Development will give every consideration to providing the final year of funding for this effort in fiscal year 1997.

Mr. BOND. I thank the Senator from Rhode Island for his interest in EPA research programs. While I am not familiar with the merits of this particular project, it seems only fair to me that EPA should look closely at fulfilling previously initiated grant awards before beginning new ones.

Mr. CHAFEE. I thank my friend from Missouri. Mr. President, I yield the floor.

Mr. FAIRCLOTH. Mr. President, I rise today to speak about the HUD appropriation levels for fiscal year 1997 and to raise concerns about some of HUD's programs that have been going forward unabated for decades.

HUD has failed. It has too many programs with hundreds of billions of dollars of long-term financial commitments. There are widespread weaknesses. It has the worst reputation of all the large Government agencies.

Over the past 3 years, all kinds of proposals for reinventing HUD have been suggested. Proposals have come from Secretary Cisneros, the White House, and the Congress. HUD's proposal to change its delivery of housing programs was named "Reinvention Blueprint."

This proposal is not really a reinvention of HUD. It is just a few changes to the same idea. Solving problems was supposed to be HUD's mission. When considering whether we should reinvent HUD or end it, each of us has to ask ourselves these questions:

Are our inner cities better off than they were 30 years ago?

Is the state of public housing better off than it was 30 years ago?

The answers to these questions is no—absolutely no. In fact, our cities are more decayed and more dangerous today than ever.

HUD's housing policy denotes the 1930's belief that public housing will solve the problems of the poor—that tearing down the slums and building public housing to replace them would eliminate breeding grounds for crime and disease.

HUD thinks that the housing it built is now ill-designed and not well constructed. HUD wants to believe that if we tear down those unsightly highrise buildings and build more aesthetically pleasing townhouses that the state of the poor will change.

HUD wants to believe that bricks and mortar are to blame. But we know that is not true. We cannot blame the state of public housing on bricks and mortar.

That is why I believe this administration's housing policy is flawed. Housing is first and foremost a local issue. Reinvention Blueprint recognizes some major flaws with HUD, but it falls short of what is really needed to reform housing.

As former HUD Secretary Jack Kemp said, "The American people do not want to reinvent government, they want to reduce the role of Government."

HUD is a massive bureaucracy with over 11,000 bureaucrats. It has over 240 housing programs—so many that the Secretary of HUD himself did not even know he had that many.

HUD has over $192 billion in unused budget authority. This spending is increasing so rapidly that by the year 2000, housing assistance will be the largest discretionary spending function in our Government.

Can Secretary Cisneros reinvent HUD? No. That is why I introduced legislation to abolish HUD.

States should be given maximum flexibility to develop their own housing policies. With States in control, tenants will be offered home ownership opportunities consistent with what Secretary Jack Kemp developed during the Bush administration.

We have made strides in changing our housing policy with reforms made in the public housing bills currently in conference. But we need to go further. We need to abolish HUD.

My colleagues, when you cast your vote for this bill and you look at the funding levels for HUD, ask yourselves why we continue to fund programs that have failed. HUD is not truly going to reinvent itself. When you look at the administration's policy behind its funding requests you too will see that we can't afford not to abolish HUD.

SWEETWATER BRANCH PROJECT

Mr. MACK. Mr. President, I rise today with my colleague from Florida, Senator GRAHAM, to make the Senate—and particularly the chairman of the VA, HUD and Independent Agencies Subcommittee—aware of the Sweetwater Branch project. This project is most important to the citizens of Florida and I believe it merits attention by the Senate.

Mr. President, the Sweetwater Basin begins north of Gainesville, FL, runs through the city and discharges into Paynes Prairie—a critical natural resource area owned by the State of Florida and home to many important species of plants and animals. This water ultimately makes its way through the Alachua Sink—a large sinkhole in the area—into the Floridan aquifer. The aquifer is a primary source of drinking water for Florida's citizens and its health is critical to our quality of life.

The city has brought together the State, Alachua County, and other interested parties in an effort to ensure that these discharges into the Prairie and the aquifer are not contaminated with agricultural and urban runoff. The city is to be commended for its diligence in working toward a solution. The project of cleaning up this water, however, is beyond the scope—both geographically and financially—of the city of Gainesville. While it has prepared to plan that would mitigate this problem at a relatively low cost, the city needs help on the funding and implementation.

Thus, it is important—in my view—that this project be made eligible for Federal assistance. I am hopeful the chairman of the subcommittee will work with us on securing the necessary funding to assist the city of Gainesville in this most important effort.

Mr. GRAHAM. Mr. President, I would join Senator MACK in commending the city of Gainesville for its diligence in funding a solution to this complex problem. The project should be considered for Federal funding because of the complexity of the problem, the difficult web of jurisdictions, and the large potential impact to the State's primary drinking water supply.

I would simply add, Mr. President, that the city of Gainesville has a history of using local resources to solve local problems. In this case the city has already financed the development of this plan and would be further committed to a financial partnership on the solution. I believe such an arrangement is critical to the success of the plan and, again, I commend the city of Gainesville for its strong commitment to this most important project. I express my strong support for the efforts of the city of Gainesville and look forward to working with my colleagues on the subcommittee to secure the necessary funding in the fiscal year 1997 legislation.

RESTRUCTURING THE FHA-INSURED AND ASSISTED MULTIFAMILY MORTGAGE PORTFOLIO

Mr. MACK. Mr. President, I rise today to commend Senator BOND for his interest in moving forward the process for restructuring the FHA-insured and assisted multifamily mortgage portfolio.

I know that the Senator believes his amendment is not a substitute for a permanent debt restructuring proposal. I want to make it clear that the authorizing committee fully intends to move forward with portfolio restructuring legislation that can be enacted before the end of this Congress.

Immediately before the recess, I introduced S. 2042, the Multifamily Assisted Housing Reform and Affordability Act of 1996. This comprehensive multifamily mortgage portfolio restructuring proposal; will deal with expiring contracts on units with rents that exceed fair market rents by reducing those rents to market levels and providing a process for restructuring the underlying FHA mortgages. I am pleased that Senator BOND has cosponsored this legislation.

The Housing Subcommittee of the Banking Committee has long been concerned that flaws in the HUD multifamily insurance and rental assistance programs have allowed owners to receive more federal dollars in rental assistance than necessary to maintain properties as decent and affordable housing. Such a policy is not fair to the American taxpayer, and it cannot be sustained in the current budget environment.

Without changes in current policies, the cost of renewing expiring project-based section 8 contracts will grow from $1.2 billion in fiscal year 1997 to almost $4 billion in fiscal year 2000 and $8 billion 10 years from now. However, if these contracts are not renewed, residents and communities will be adversely affected and most of the FHA-insured mortgages—with an unpaid balance of $18 billion—will default and result in claims on the FHA insurance fund.

This proposal would establish an orderly and well-understood mechanism for reducing section 8 rents and restructuring mortgage debt with or without FHA mortgage insurance. It would utilize capable public entities, like State housing finance agencies, to restructure the portfolio; require input from residents and communities; and treat good owners and managers of multifamily properties fairly.

I believe our bill will have broad-based support that reflects the interests of all of the stakeholders in the process, and we intend to move it forward.

I look forward to working with Senator BOND to develop a sound long term strategy for section 8 contract renewals.

BUDGET COMMITTEE SCORING OF H.R. 3666

Mr. DOMENICI. Mr. President, I rise in support of H.R. 3666, the Departments of Veterans Affairs and Housing and Urban Development and independent agencies appropriations bill for 1997.

This bill provides new budget authority of $84.3 billion and new outlays of $49.7 billion to finance the programs of the Departments of Veterans Affairs and Housing and Urban Development, the Environmental Protection Agency, NASA, and other independent agencies.

I congratulate the chairman and ranking member for producing a bill that, with adoption of the manager's amendment, is within the subcommittee's 602(b) allocation. This is a one of the most difficult bills to manage with its varied programs and challenging allocation, but I think the bill meets most of the demands made of it while staying under budget and is a strong candidate for enactment, so I commend my friend the chairman for his efforts and leadership.

When outlays from prior-year budget authority and other adjustments are taken into account, the bill totals $84.3 billion in budget authority and $98.7 billion in outlays. As reported, the total bill is over the Senate subcommittee's 602(b) nondefense allocation for budget authority by $4 million and under its allocation for outlays by $6 million. The subcommittee is also under its defense allocation by $4 million in budget authority and outlays.

I ask Members of the Senate to refrain from offering amendments which would cause the subcommittee to exceed its budget allocation and urge the speedy adoption of this bill.

Mr. President, I ask unanimous consent that a table displaying the Budget Committee scoring of the bill be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

VA–HUD SUBCOMMITTEE SPENDING TOTALS—SENATE-REPORTED BILL

[Fiscal year 1997, dollars in millions]

	Budget authority	Outlays
Defense discretionary:		
Outlays from prior-year budget authority and other actions completed	--	61
H.R. 3666, as reported to the Senate	125	64
Scorekeeping adjustment	--	--
Subtotal defense discretionary	125	125
Nondefense discretionary:		
Outlays from prior-year budget authority and other actions completed	365	47,431
H.R. 3666, as reported to the Senate	63,964	31,611
Scorekeeping adjustment	--	--
Subtotal nondefense discretionary	64,329	79,042
Mandatory:		
Outlays from prior-year budget authority and other actions completed	--	1,153
H.R. 3666, as reported to the Senate	20,260	18,013
Adjustment to conform mandatory programs with budget resolution assumptions	-406	381
Subtotal mandatory	19,854	19,547
Adjusted bill total	84,308	98,714
Senate subcommittee 602(b) allocation:		
Defense discretionary	129	129
Nondefense discretionary	64,325	79,048
Violent crime reduction trust fund	--	--
Mandatory	19,854	19,547
Total allocation	84,308	98,724
Adjusted bill total compared to Senate subcommittee 602(b) allocation:		
Defense discretionary	-4	-4
Nondefense discretionary	4	-6
Violent crime reduction trust fund	--	--
Mandatory	--	--
Total allocation	--	-10

Note: Details may not add to totals due to rounding. Totals adjusted for consistency with current scorekeeping conventions.

NSF SUPERCOMPUTER

Mr. BOND. Mr. President, more than a month after the Committee on Appropriations reported the pending fiscal year 1997 VA–HUD appropriations bill, the Department of Commerce announced that it would undertake an investigation of the alleged below-market bid made by a Japanese vendor in a pending supercomputer procurement of the National Center for Atmospheric Research [NCAR]. This investigation is in accordance with the anti-dumping procedures specified in law. Subsequent to this announcement, on August 20, the National Science Foundation, which provides the bulk of Federal operating support for NCAR requested that the pending procurement be put on hold and await the resolution of the dumping issue.

I have been asked if these actions negate or otherwise change the Committee's position with respect to the deletion of section 421 of the House-passed bill. That provision was intended to block the NCAR procurement by prohibiting the use of funds to pay the salaries of personnel who approve a contract for a supercomputer which is found to be in violation of the anti-dumping provisions of law.

The answer is no. The House provision inappropriately attempted to impose a penalty for alleged dumping, separate and apart from that provided for in law. Current law specifies a clearly defined process for the Department of Commerce to investigate and determine if unfair prices are being offered by a foreign vendor. Furthermore, upon the determination that dumping has occurred, redress is provided through the imposition of compensating duties. The House proposal would require the National Science Foundation to determine whether dumping has occurred, an agency that does not have the expertise nor the authority to make such a finding. If this provision were to be enacted the Foundation would have to prejudge the outcome of the Commerce Department investigation. Unfortunately, by preventing any contract from being approved, NSF may lead to the adverse consequences that we are seeking to avoid.

The decision of the Foundation to request a delay in the procurement pending competition of the anti-dumping investigation process now underway by the Commerce Department may jeopardize the pending procurement, and will certainly delay the needed acquisition of state-of-the-art supercomputing technology. Such potential consequences are very disturbing, especially since the NSF is under no obligation to delay these contractual negotiations. Indeed, the anti-dumping provisions remedies are premised on imposition of special duties, not on a rescission of any sales or a prohibition on any sale.

If the action of the Foundation were to terminate the pending procurement, it would have the effect of nullifying the established process of investigating and determining whether dumping has occurred, a responsibility of the Commerce Department, not the National Science Foundation.

Mr. President, the chairman and the ranking minority Member of the Senate Finance Committee, Senators ROTH and MOYNIHAN, wrote a letter objecting to the House provision, and urging that the normal process be followed. In addition, the Senator from Maine, Senator COHEN, also wrote on behalf of the Government Affairs Committee expressing his concern over the implications that the House provision would have on procurement procedures of the Government, under the jurisdiction of that committee.

I ask unanimous consent that these letters be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, DC, July 25, 1996.

Hon. CHRISTOPHER S. BOND,
Chairman, Subcommittee on VA, HUD, and Independent Agencies, Committee on Appropriations, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR KIT: We are writing to express our concerns about a provision in the House version of the VA–HUD appropriations bill for fiscal year 1997 (H.R. 3666), which may also be offered as an amendment to the Senate version of the bill. This provision (section 421) would prohibit the use of appropriated funds to pay the salaries of National Science Foundation (NSF) employees who authorize the acquisition of any supercomputer, which the Department of Commerce determines was sold at a dumped price.

In our opinion, it is inappropriate to include this provision on an appropriations bill. The provision involves the administration of the antidumping law, which falls squarely under the jurisdiction of the Senate Committee on Finance. Because the provision could result in a violation of United States' obligations under the antidumping rules of the World Trade Organization (WTO), the Committee on Finance should have an opportunity to examine the potential consequences should the provision be enacted into law.

Moreover, in making its procurement decision, the NSF must take into account all relevant factors, including the possibility of dumping. However, the U.S. antidumping law provides a remedy if the NSF's procurement results in the U.S. industry having to compete with dumped imports. Then the appropriate action is for the U.S. industry to file an antidumping petition with the Department of Commerce and the U.S. International Trade Commission or for the Department of Commerce to self initiate an antidumping investigation.

In light of these considerations, we urge you to do what you can to resist any attempt to add this or any similar provision to the Senate bill and to ensure that the provision is not included in the bill when the legislation moves to conference.

Sincerely,

WILLIAM V. ROTH, JR.,
Chairman.

U.S. SENATE,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, DC, July 9, 1996.

Hon. CHRISTOPHER BOND,
Chairman, Subcommittee on VA-HUD Appropriations, Dirksen Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: Attached is a copy of a provision contained in H.R. 3666, which the House recently passed to provide appropriations for VA-HUD and Independent Agencies.

This bill contains funding for National Science Foundation (NSF) programs. Section 421 is aimed at preventing the planned lease of a supercomputer by the University Corporation for Atmospheric Research (UCAR), which must obtain NSF approval before entering into a contract to acquire the supercomputing capacity selected by UCAR technical experts under a competitive procurement process.

When the House of Representatives considered H.R. 3666, there was serious disagreement among several Members as to whether the language of Section 421 was a violation of the government procurement code. Representative Kolbe and Representative Campbell presented strong arguments that the procurement code would indeed be violated by this provision, if it is enacted into law. Representative Crane, Chairman of the Subcommittee on Trade, presented arguments that the provision could also be a violation of antidumping and trade laws (please see attached copy of his letter).

As the Chairman of the Subcommittee on Oversight of Government Management and the District of Columbia, I wanted to inform you of my concern that this particular provision has not been discussed in appropriate

hearings before the Senate and that it's impact has not received any consideration by the Committee on Government Affairs which has jurisdiction over the issue of government procurement.

In your role as the Chairman of the Subcommittee providing funding for the National Science Foundation, I hope you will agree the language of Section 421 or any language which is intended to interrupt the orderly operation of the formal procurement process could set a dangerous precedent. Because of the intense concern expressed by the House Members during their debate and because the Senate committee of jurisdiction has not yet discussed this serious issue, I ask that you take whatever action is necessary to prevent the inclusion of any language in the VA-HUD appropriations bill which, in effect, could create a legislated change in the manner in which the procurement code is applied. Any impact on the procurement process caused by congressional legislative action should receive the full review and consideration by the committee of jurisdiction.

Your consideration of this request will be sincerely appreciated.

With best wishes, I am

Sincerely,

William S. Cohen,

Chairman, Subcommittee on Oversight of Government Management and the District of Columbia.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
Washington, DC, June 12, 1996.

Hon. BOB LIVINGSTON,
Chairman, Committee on Appropriations, House of Representatives, Washington, DC.

DEAR BOB: I am writing in reference to provision 421 included in the National Science Foundation (NSF) appropriations legislation as reported out by subcommittee that would provide that no funding may be used to pay the salaries of any NSF employee who approves a contract for supercomputing equipment after a preliminary or final determination of dumping by the Commerce Department (language attached). This amendment is aimed at the proposed procurement of an NEC supercomputer by an NSF grantee. In a May 20, 1996 letter, the Commerce Department opined, without conducting a formal investigation, that the lease in question may constitute dumping.

I am greatly concerned that the effect of this amendment would be to force NSF to turn down the NEC supercomputer even though neither the Department of Commerce nor the International Trade Commission have made any formal findings of dumping and injury and, in fact, have not initiated any formal investigations, as required in order to impose antidumping duties.

Clearly, we must enforce our antidumping laws to prevent unfair trading. However, this amendment would improperly use the appropriations process to chill what could be a legitimate, procurement that does not involve dumping. I believe that whether the NEC lease is an appropriate procurement and whether the lease is in fact being made at a dumped price should be determined on the merits of the case. It is impossible for Congress to determine now whether the procurement in question violates the antidumping statute. That is a matter for the Commerce Department and the International Trade Commission to determine, using statutorily mandated procedures. Only when they have made this determination can we begin to consider the effects on the procurement.

The amendment, however, forces Congress to prejudge this decision. Indeed, I am concerned that such an amendment could violate our obligations under Article 18(1) of the WTO Antidumping Agreement, which states that no specific action against dumping of exports from another party may be taken except in accordance with the Agreement and does not authorize punitive measures such as disqualification from government procurement. In addition, I am concerned that the amendment could violate Article III of the Government Procurement Agreement, which provides that each party shall provide national treatment to suppliers of other parties. Accordingly, I strongly urge you to remove the amendment from the legislation when the bill is considered by your Committee.

I look forward to working with you on this matter.

With best personal regards,

PHILIP M. CRANE,
Chairman.

PROVISION 421

SEC. 421. None of the funds appropriated or otherwise made available by this Act may be used to pay the salaries of personnel who approve a contract for the purchase, lease, or acquisition in any manner of supercomputing equipment or services after a preliminary determination, as defined in 19 U.S.C. 1673b, or final determination, as defined in 19 U.S.C. 1673d, by the Department of Commerce that an organization providing such supercomputing equipment or services has offered such product at other than fair value.

Mr. BOND. Mr. President, for the reasons I have outlined, both programmatic, as well as jurisdictional, it is my intent to sustain the Senate's deletion of the House provision in conference. And for the same reasons, I urge the National Science Foundation to reconsider its delay in this procurement.

ENVIRONMENTAL PROTECTION AGENCY

Mrs. BOXER. Mr. President, last year Republicans waged a covert war against the environment when they attempted to drastically cut EPA's budget in order to cripple the EPA's ability to set and enforce environmental standards. The cuts that eventually passed were not as drastic, but they have meant that an already stretched EPA has had to curtail important work that ensures the health and safety of all Americans.

I am relieved to see that, this year, there is no new attempt by Republicans to further cut EPA's enforcement budget. A poorly funded EPA will mean more water pollution, more smog in our cities and countryside, more toxic waste problems. For this reason I will continue to fight for a strong, efficient, and well funded Environmental Protection Agency. It is in the best interest of the health and safety of our citizens.

I am also pleased that the fiscal year 1997 appropriations bill for the Environmental Protection Agency does not include any of the contentious antienvironmental legislative riders that were attempted last year.

There are several issues included in this bill of great importance to California that I would like to highlight:

South Tahoe export pipeline replacement project:

Although my request for funds for this project was not included in the bill, I want to thank Senator BOND and Senator MIKULSKI for their interest in the project and ask them to keep Lake Tahoe in mind in conference to see if some help for Lake Tahoe can be provided.

Help for Lake Tahoe is so urgent that the project was authorized in the Safe Drinking Water Act as a special project to be considered by the Administrator of EPA if there are sufficient funds.

The South Tahoe Public Utility District needs urgent help in replacing its export pipeline system which protects and preserves the water quality in Lake Tahoe. The export pipeline transports reclaimed water from the wastewater treatment plant in South Tahoe out of the Lake Tahoe basin to a nearby reservoir where the reclaimed water is stored and later used for irrigation and other purposes.

The existing pipeline is reaching the end of its useful life and must be replaced quickly if we are to avoid the possibility of a catastrophic spill resulting in serious environmental harm to Lake Tahoe. Several serious leaks have already occurred over the last 2 years, and the risk of a rupture increases the longer it takes to complete the replacement project.

The local community has raised $10 million toward replacement of the pipeline, but a total of $30 million will be needed. The local community is already paying sewer rates substantially higher than the average in California, $10 million in Federal assistance is needed if the pipeline is to be replaced in a timely manner. While the local community might be able to pay for the pipeline replacement over the long term by enduring high utility rates, it will not get the job done as quickly as it could be done with Federal assistance. Such Federal assistance would enable the South Tahoe Public Utility District to complete the project in a more expeditious manner, reducing the chances of a large leak with serious environmental consequences for the lake.

Southwest center for environmental research and policy center.

I am pleased that the bill includes an additional $2.5 million for the Southwest Center for Environmental Research and Policy.

SCERP is a consortium of American and Mexican universities that works to address environmental problems along the United States-Mexican border including but not limited to air quality, water quality, and hazardous materials. SCERP's members include San Diego State University, New Mexico State University, University of Utah, University of Texas-El Paso, and Arizona State University. SCERP had its origins in the Clean Air Act Amendments of 1990, which authorized the establishment of an entity to research

air and water quality and other environmental problems in the border region. SCERP has been funded through congressional appropriations for the last 5 years in fulfillment of the Clean Air Act mandate.

United States-Mexico border cleanup: New River cleanup.

I strongly support the $100,000 million appropriation, the same as the budget request, for architecture, engineering, design, and construction-related activities for high priority water and wastewater facilities in communities near the United States-Mexico border.

A top priority border cleanup project is the cleanup of the New River, which flows from Mexico to Imperial County, CA, and is one of the most polluted rivers in the world.

New River cleanup is essential to ensuring the environmental health of the southern California border region. The cleanup project consists of two stages. Stage one, currently underway, consists of a series of quick fix repair jobs on the Mexicali, Mexico, sewer system aimed at significantly reducing the flow of raw sewage into the New River. Stage two will consist of planning, design, and construction of a wastewater treatment plant and allied systems.

I recently wrote to Carol Browner, Administrator of the Environmental Protection Agency asking the EPA to reaffirm its commitment to meeting the obligation of the United States to contribute 55 percent of the cleanup costs of the New River in Imperial County, CA. The EPA responded on July 26, 1996, confirming its commitment to meeting its 55-percent share of the cleanup costs for the New River. I ask unanimous consent that the EPA letter appear in the RECORD immediately after my statement.

Rice growers in California's Sacramento River valley.

In closing I strongly urge the Environmental Protection Agency to continue working closely with California rice growers to help them achieve certainty regarding the regulation of agricultural waters under the Clean Water Act. Rice growers need clarity and certainty regarding how water quality standards apply to waters associated with rice production in the Sacramento River Valley. I am hopeful that we will be able to reach a solution that all sides are comfortable with in the very near future.

LOW-INCOME HOUSING PRESERVATION

Ms. MOSELEY-BRAUN. Mr. President, I would like to thank the chairman and ranking member of the VA, HUD, and Independent Agencies Subcommittee, on behalf of myself and the other sponsors of the preservation amendment, for including an increase in preservation funding in the manager's amendment to the appropriations bill. Senator BOND and Senator MIKULSKI have been strong and constant champions of the preservation program.

The provision included in the manager's amendment would increase the full appropriation for the low-income housing preservation program by $150 million to $500 million by rescinding $150 million in recaptured preservation interest payments.

Adequate funding for preservation sales to nonprofit organizations is vital if we are to retain affordable rental housing in our communities for families and senior citizens. There are currently more than 300 projects with 30,000 units of affordable housing in the process of being sold to nonprofit and tenant organizations. Without sufficient funding these sales will not go through and thousands of units of affordable housing could be irretrievably lost.

Preservation has been a tremendous success throughout the country and in my own State of Illinois. To date, over 4,000 apartments in more than 17 developments in Illinois have been preserved as affordable housing. Eight of these properties, containing over 2,400 apartments have been transferred to nonprofit owners with the support of the residents.

In Illinois we have three properties, Carmen Marine Apartments, 707 Waveland, and West Park Place, that have been sold to resident councils who are converting the properties to resident home ownership. Carmen Marine is a 300 unit high rise located on Lake Michigan. The residents here became the first tenants in the country to purchase their units under the preservation program in 1994. The average income is approximately $18,000 per year. Rents have remained affordable and a mixed income community with seniors and families of diverse national origins has been preserved. An Illinois success story repeated across the Nation.

The need for affordable housing greatly exceeds the supply. It does not make sense to take a significant number of high quality, low-income units off the market where they can be preserved. With adequate preservation funding we can preserve some of the best of our affordable housing stock. In many neighborhoods, there is no comparable housing available to these tenants.

In Illinois alone, the sales of over 3,500 units to nonprofits are pending. These are units that house senior citizens in their own neighborhoods. These are units that allow families to grow up in good communities. These are affordable units for working people.

The decisions we make concerning funding for preservation will have a direct impact on the lives of these residents and for hundreds of thousand of others around the country. Good, affordable apartments and the American dream of home ownership, to me that, is something worth preserving. I thank my colleagues for including this important increase in preservation funding in the fiscal year 1997 VA, HUD, and independent agencies appropriations bill.

Mr. KERRY. Mr. President, I would like to comment on the HUD title of the VA–HUD appropriations bill. I first want to commend the chairman and the ranking member of the subscommittee for their hard work on this bill. The competing and diverse priorities addressed by this appropriations bill make it arguably the most difficult of all the bills to craft. The chairman and the ranking members take a thoughtful, considered approach to a difficult task and their efforts deserve recognition.

Unfortunately, the VA–HUD Subcommittee has over the last several years been saddled with an insufficient budget allocation. It should not be terribly surprising therefore, that the amounts the subcommittee has provided for many of its programs and activities are inadequate. Nowhere are the overall Federal budget pressures felt more keenly than at HUD. Funding in this bill for public housing operating subsidies, public housing modernization, incremental section 8, elderly and disabled housing, and homeless assistance simply is inadequate relative to the needs across our Nation.

But despite the insufficient overall allocation, there are some bright spots in the bill. Several elements of the HUD title deserve particular mention. I congratulate the subcommittee for providing level funding for the HOME and CDBG programs. These are extremely important programs for providing affordable housing and revitalizing distressed communities. Their blend of national priorities and local flexibility makes these two of HUD's strongest programs.

I also would like to thank the chairman and the ranking member for accepting two amendments that I offered with other members. The first amendment that I offered with my distinguished colleague from new Mexico, Senator DOMENICI, will provide a set-aside of $50 million for vouchers for disabled persons. As the Congress has moved to allow local public housing authorities to designate certain housing developments for elderly only, it is important that we provide alternative housing resources to meet the housing needs of disabled individuals who in the past had access to such housing.

The second amendment increases the appropriations for the low-income housing preservation program from $350 million to $500 million. This is an extremely important program in Massachusetts and across the country. Thousands of families around the country are threatened with losing their affordable housing as owners prepay their HUD-assisted mortgages and convert the housing to either market-rate

housing or other uses. The preservation program provides funding to maintain the buildings as affordable housing. The program has been troubled, but its mission is sound. We on the authorizing committee will continue to work to improve its performance. I again thank the chairman and the ranking member for their support of this amendment and I thank my cosponsors Senators CRAIG, MOSELEY-BRAUN, and SARBANES.

In 1996, Congress provided a priority for funding the portion of the preservation program that provides for the transfer of these developments to community and resident-based nonprofit corporations. I have visited with residents in my home State who have worked for years to assemble funding packages and grant applications to achieve ownership of their dwellings. With this appropriation, the dreams of many across the Nation will come to fruition. But the demand for the sales program has been extraordinary and it is already clear that the $500 million for fiscal year 1997 will not be enough. I am planning to work with the administration and the conferees on this bill to identify other possible sources of funding in order to meet this demand.

Finally, Mr. President, I would like to comment on the Bond amendment related to HUD multifamily portfolio restructuring. We have been working very hard in a bipartisan manner in the Banking Committee to address this intractable problem. As others have described, the effort to lower high section 8 costs and avoid excessive FAA mortgage defaults—while at the same time preserving affordable housing—is complicated and costly. The demonstration for which the Bond amendment provides, represents a good first step toward putting in place a program for lowering section 8 costs and restructuring the mortgages in a sound way. Most important, the amendment states that the purpose of the demonstration is to preserve affordable housing and identifies the public interest in the future affordability of these properties. The amendment preserves project-based assistance and ensures that public agencies are involved in the restructuring.

I do have several concerns with the Bond amendment—particularly related to the role of the residents, the community, and the local government in the restructuring process—but I am confident the bipartisan approach Senator BOND has taken to this point with respect to this amendment will continue in the conference committee and I look forward to working with the chairman in making these improvements and in putting something in place until the authorizing committee can enact a permanent solution.

Mr. BOND. Mr. President, let me thank the leaders for their cooperation in helping us come to what I had not expected to see at this point. We are deeply grateful for the accommodation. After we have acted on the pending amendments, then I believe we will be ready to go to third reading.

Thanks and appreciation to all involved, particularly my colleague, Senator MIKULSKI, and our staffs on both sides.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, as we are just minutes away from the vote on four amendments and then final passage, I thank Senator BOND for his cooperation, respecting the voice of the minority, and for his very able staff and the way they worked with us; Senator LOTT, who worked with us to bring the bill to the floor; to the Democratic leader for his advocacy for all of the issues in this bill, and for creating a framework where we could get many things done; and also to my staff for the excellent work that they did.

The PRESIDING OFFICER. The distinguished majority leader.

Mr. LOTT. I would like to take a moment, too, to say to the chairman of the subcommittee and the ranking member, the managers of this legislation, they have done an excellent job. I know it has not been easy for them, many times, working with the leadership as we have tried to get agreement on a whole number of issues that were really unrelated to their legislation. I think they have done a great job with the bill itself. I apologize for us not being able to get it done before the August recess, but you have been very considerate in your willingness for us to do other things. I thank you for your work. You have done a good job and I am glad we are going to be able to complete it tonight. Although we have enjoyed having you on the floor all this week, you have done such a wonderful job, we still think it better to move on to other issues. Thank you for your good work.

AMENDMENT NO. 5194, AS AMENDED

The PRESIDING OFFICER. The question now occurs on agreeing to amendment No. 5194, as amended, offered by the Senator from New Mexico. The yeas and nays have been ordered. The clerk will call the roll.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, before we start, we had a minute on each side. Do they need it? I think we might as well get started. I don't think we need it on this particular amendment, but I wanted to be sure. Under the unanimous-consent agreement, there are 2 minutes equally divided prior to each piece of legislation.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I say to my colleague from Kentucky, I think on the Domenici-Wellstone amendment, we had a pretty thorough debate and discussion, so we probably don't need it on this one.

Mr. FORD. That is what I was saying. On the others, I wanted to alert the Chair to that.

The PRESIDING OFFICER. The Chair thanks the minority whip. The clerk will call the roll.

The bill clerk called the roll.

The PRESIDING OFFICER (Mr. SMITH). Are there any other Senators in the Chamber desiring to vote?

Mr. NICKLES. I announce that the Senator from Oregon [Mr. HATFIELD] and the Senator from Alaska [Mr. MURKOWSKI] are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon [Mr. HATFIELD] and the Senator from Alaska [Mr. MURKOWSKI] would vote "yea."

Mr. FORD. I announce that the Senator from Hawaii [Mr. INOUYE] is necessarily absent.

The result was announced—yeas 82, nays 15, as follows:

[Rollcall Vote No. 274 Leg.]

YEAS—82

Abraham	Feingold	McConnell
Akaka	Feinstein	Mikulski
Baucus	Ford	Moseley-Braun
Bennett	Frahm	Moynihan
Biden	Frist	Murray
Bingaman	Glenn	Nunn
Bond	Graham	Pell
Boxer	Grassley	Pressler
Bradley	Harkin	Pryor
Breaux	Hatch	Reid
Bryan	Heflin	Robb
Bumpers	Helms	Rockefeller
Burns	Hollings	Roth
Byrd	Hutchison	Santorum
Campbell	Jeffords	Sarbanes
Chafee	Johnston	Shelby
Cochran	Kassebaum	Simon
Cohen	Kempthorne	Simpson
Conrad	Kennedy	Snowe
Coverdell	Kerrey	Specter
Craig	Kerry	Stevens
D'Amato	Kohl	Thomas
Daschle	Lautenberg	Thurmond
DeWine	Leahy	Warner
Dodd	Levin	Wellstone
Domenici	Lieberman	Wyden
Dorgan	Lott	
Exon	Lugar	

NAYS—15

Ashcroft	Gramm	Mack
Brown	Grams	McCain
Coats	Gregg	Nickles
Faircloth	Inhofe	Smith
Gorton	Kyl	Thompson

NOT VOTING—3

Hatfield	Inouye	Murkowski

The amendment (No. 5194), as amended, was agreed to.

AMENDMENT NO. 5197

The PRESIDING OFFICER. All succeeding votes will be 10-minute rollcall votes. The next order of business is amendment No. 5197, the amendment offered by the Senator from Iowa, Mr. HARKIN.

Mr. HARKIN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is sufficient second.

The yeas and nays were ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. LOTT. Mr. President, we are ready to propound a unanimous-consent request. That way Members will know what they can expect for the next 3 days, Friday, Monday, and Tuesday. We will go through this now and then we will go to the brief explanation on the Harkin amendment and go to final vote. Members have been asking, Mr. President, what will be the items that we will go to next. Rather than answer one by one I thought I could go ahead and outline this. I want to thank the leader for his work in trying to put it together.

I ask unanimous consent that at 9:30 on Friday the Senate turn to the immediate consideration of a bill to be introduced tonight by Senator KENNEDY regarding employment discrimination, and the bill be placed on the calendar, the text of which will be submitted in the form of an amendment to Calendar No. 499, and there be a time limitation of 3 hours to be equally divided in the usual form with no amendments or motions to refer in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. I further ask that at 9:30 on Tuesday the Senate proceed to Calendar No. 499, the Defense of Marriage Act and it be considered under the same terms as outlined above, with 45 minutes under the control of Senator BYRD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. I further ask that the vote regarding passage of Calendar No. 499 occur immediately following the vote with respect to the Department of Defense authorization conference report on Tuesday, September 10, and following that vote there be 30 minutes for debate on the Kennedy bill to be equally divided in the usual form with the vote to occur following the conclusion or yielding back of the time on Tuesday.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. I further ask that following the disposition of the employment discrimination bill on Tuesday, September 10, the Senate proceed to the Treasury-Postal Service appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Finally, I ask unanimous consent that the cloture motion filed earlier this evening with respect to Calendar No. 499 be vitiated since it is no longer needed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. For the information of all Senators, the Senate will proceed to four remaining back-to-back votes regarding the HUD-VA bill and the Iraqi resolution. There will be no further votes following passage.

On Friday the Senate will debate the employment discrimination bill introduced by Senator KENNEDY and also conduct a period for morning business. However, no votes will occur on Friday. On Monday, the Senate will debate the Department of Defense authorization conference report under previous consent. Also, the Senate will conduct a period for morning business. No votes will occur during Monday's session of the Senate. On Tuesday, the Senate will debate the defense of marriage bill, and at 2:15 a series of votes will occur beginning with the DOD authorization conference report. Following those stacked votes, the Senate will proceed to the Treasury-Postal Service appropriations bill.

I want to thank all Senators and the Democratic leader for their cooperation. Now it does make it possible for us not to have votes on Friday and Monday, but allows for us to accomplish a great deal of our work together, have debate, and then have stacked votes on Tuesday. We will be able to proceed with getting our work done with a minimum disruption of commitments that Senators must necessarily fulfill.

Mr. DASCHLE. If the majority leader will yield just for a clarification, I say at the outset that I support entirely the result of these negotiations, and I appreciate very much everyone's cooperation.

On the first page of the unanimous-consent agreement, in reference to the bill to be offered by Senator KENNEDY, on the bottom line it asks unanimous consent that the bill be equally divided in the usual form, with a vote to occur on Tuesday. It did not say a vote on final passage. I assume the majority leader meant a vote on final passage.

Mr. LOTT. That is correct. I amend that request to include that a vote on final passage occur following the conclusion or yielding back of the time. I ask unanimous consent that the agreement be modified to reflect that.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, am I correct that when we are talking about the Defense of Marriage Act on Tuesday, that will be a vote on final passage as well?

Mr. LOTT. It would be, yes, immediately after the vote on the Department of Defense conference report at 2:15, between 2:30 and 2:45.

I yield the floor.

DEPARTMENT OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1997

The Senate continued with the consideration of the bill.

AMENDMENT NO. 5197

The PRESIDING OFFICER. The pending business is the Harkin amendment. There are 2 minutes equally divided. Who seeks recognition?

Mr. HARKIN. Mr. President, what this amendment does is it basically is a hold-harmless amendment. There is no contradiction between this amendment and the McCain amendment of last night. This amendment says that any increases can go to these States, but no State this year can get less than what it did last year. It is almost commonly held around here that when we make major changes in formulas, we always have a 1-year hold harmless as a bridge. That is what this amendment does; it makes that bridge.

What I am saying, basically, is that this vote on this amendment I have offered means that a lot of States will not be severely cut in their veterans health benefits this year. It holds them harmless. But it says to those high-growth States, like Arizona, Florida, and others, they can go ahead and get the increase. But there will not be big cuts in a lot of other States.

I suggest that people might want to check to see what is going to happen to their States if the McCain amendment is adopted without this hold-harmless clause. I know people say we have to treat veterans equitably, and we do. But in a lot of the States, like Pennsylvania, New York, Iowa, and a lot of Northern States, our veterans are older, poorer, and sicker, and it costs more. That is not taken into account in the McCain amendment, and it is in mine.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BOND. Mr. President, the Veterans' Administration Undersecretary for Health is doing an outstanding job in bringing modern, efficient, effective, and compassionate health care to our Nation's veterans. He testified before my subcommittee earlier this year that one of the barriers about which he was most concerned in attempting to change and improve the way the Veterans' Administration operates is the Congress. The Harkin amendment is precisely what the Veterans' Administration feared, because it would prevent the Veterans' Administration from making changes to see that the older and sicker veterans, wherever they live, get the care that they need.

The Veterans' Administration opposes this amendment because it would prevent them from efficiently allocating resources to meet veterans' health needs in the most effective manner. I, therefore, move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question occurs on agreeing to the motion to table.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Oregon [Mr. HATFIELD] and the Senator from Alaska [Mr. MURKOWSKI] are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon [Mr. HATFIELD] would vote "yea."

Mr. FORD. I announce that the Senator from Hawaii [Mr. INOUYE] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 60, nays 37, as follows:

[Rollcall Vote No. 275 Leg.]

YEAS—60

Abraham	Faircloth	Lugar
Akaka	Feinstein	Mack
Ashcroft	Ford	McCain
Bennett	Frahm	McConnell
Bingaman	Frist	Nickles
Bond	Gorton	Nunn
Breaux	Graham	Pryor
Brown	Gramm	Reid
Bryan	Grams	Robb
Bumpers	Gregg	Roth
Burns	Hatch	Santorum
Campbell	Helms	Shelby
Chafee	Hollings	Simpson
Coats	Hutchison	Smith
Cochran	Inhofe	Stevens
Cohen	Johnston	Thomas
Coverdell	Kassebaum	Thompson
Craig	Kempthorne	Thurmond
DeWine	Kyl	Warner
Domenici	Lott	Wyden

NAYS—37

Baucus	Grassley	Moseley-Braun
Biden	Harkin	Moynihan
Boxer	Heflin	Murray
Bradley	Jeffords	Pell
Byrd	Kennedy	Pressler
Conrad	Kerrey	Rockefeller
D'Amato	Kerry	Sarbanes
Daschle	Kohl	Simon
Dodd	Lautenberg	Snowe
Dorgan	Leahy	Specter
Exon	Levin	Wellstone
Feingold	Lieberman	
Glenn	Mikulski	

NOT VOTING—3

Hatfield	Inouye	Murkowski

The motion to lay on the table the amendment (No. 5197) was agreed to.

AMENDMENT NO. 5190

The PRESIDING OFFICER. The question now occurs on amendment No. 5190 by the Democratic leader, Mr. DASCHLE. Pursuant to rule XVI, paragraph 4, the Chair submits the question to the Senate; namely, Is the amendment germane subject matter of the bill? On this question, the yeas and nays have been ordered.

The PRESIDING OFFICER. There is 1 minute of debate.

The minority leader is recognized.

Mr. DASCHLE. Mr. President, as a requirement of the 1991 Agent Orange Act, after a thorough analysis of all relevant scientific evidence, the National Academy of Sciences announced in March a link between agent orange exposure and the presence of spina bifida in offspring.

My amendment would extend health care, vocational rehabilitation, and monetary benefits to Vietnam veterans' children born with spina bifida, a serious birth defect that requires lifelong medical care. It is completely paid for with a non-controversial savings provision.

While this should be an honest vote on the proposal itself, some have chosen to cloak it in a procedural question. I ask my colleagues to vote against the germaneness point of order. Of all amendments we have debated and voted on today, this amendment is clearly a veterans' issue on this veterans' bill.

I yield the floor.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. This is a perfect example of why this country has a $5 trillion debt. On the basis of one study, one study which the author testified before the House we should not rely on, the minority leader wants to create on an appropriations bill a brand-new entitlement program which has not been heard in the authorizing committee, which is not based on sound science. If you believe sound science rather than emotion should be the basis of our action, then you could not support this proposal. But it is an effort to establish over the objections of the authorizing committee chairman an entitlement program on an appropriations bill, and it was for that reason I raised the point that this amendment is not germane.

I ask that the Members support the argument that this is not germane, and I ask they vote no.

The PRESIDING OFFICER. The Chair submits to the Senate the question, Is the amendment germane? The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Oregon [Mr. HATFIELD] and the Senator from Alaska [Mr. MURKOWSKI] are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon [Mr. HATFIELD] would vote "nay."

Mr. FORD. I announce that the Senator from Hawaii [Mr. INOUYE] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 62, nays 35, as follows:

[Rollcall Vote No. 276 Leg.]

YEAS—62

Abraham	Baucus	Bingaman
Akaka	Biden	Boxer
Bradley	Graham	Moynihan
Breaux	Grassley	Murray
Bryan	Harkin	Nunn
Bumpers	Heflin	Pell
Byrd	Helms	Pressler
Cochran	Hollings	Pryor
Conrad	Jeffords	Reid
D'Amato	Johnston	Robb
Daschle	Kennedy	Rockefeller
DeWine	Kerrey	Sarbanes
Dodd	Kerry	Shelby
Domenici	Kohl	Simon
Dorgan	Lautenberg	Snowe
Exon	Leahy	Specter
Faircloth	Levin	Stevens
Feingold	Lieberman	Warner
Feinstein	McConnell	Wellstone
Ford	Mikulski	Wyden
Glenn	Moseley-Braun	

NAYS—35

Ashcroft	Frist	Lugar
Bennett	Gorton	Mack
Bond	Gramm	McCain
Brown	Grams	Nickles
Burns	Gregg	Roth
Campbell	Hatch	Santorum
Chafee	Hutchison	Simpson
Coats	Inhofe	Smith
Cohen	Kassebaum	Thomas
Coverdell	Kempthorne	Thompson
Craig	Kyl	Thurmond
Frahm	Lott	

NOT VOTING—3

Hatfield	Inouye	Murkowski

The PRESIDING OFFICER. On this vote, the ayes are 62, the nays are 35. The judgment of the Senate is that the amendment is germane.

The question now occurs on agreeing to the Daschle amendment, No. 5190.

The amendment (No. 5190) was agreed to.

Mr. BOND. Mr. President, I move to reconsider the vote.

Mrs. BOXER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNITED STATES RESPONSE TO IRAQI AGGRESSION

The Senate continued with the consideration of the resolution.

The PRESIDING OFFICER. The question before the Senate now is Senate Resolution 288, offered by the majority leader and minority leader regarding the United States response to Iraqi aggression. There are 2 minutes equally divided.

The minority leader is recognized.

Mr. DASCHLE. Mr. President, there are a number of Senators on both sides of the aisle who deserve our gratitude for the effort put forth in the last couple of days to bring us to this point. I will not name them now. I will name them later.

Let me simply read the resolving clause:

> The Senate commends the military actions taken by and the performance of the United States Armed Forces, under the direction of the Commander in Chief, for carrying out this military mission in a highly professional, efficient and effective manner.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I thank the majority leader and the Democratic leader for framing a very difficult compromise which has, given the proximity to a Presidential election, a great deal of emotion associated with it.

I believe this resolution achieves the goal that we seek of expressing our appreciation and our gratitude for the outstanding men and women who serve in the military. It is obvious that those men and women serve under the Commander in Chief, and that is appropriate to be mentioned in this resolution.

Mr. President, I don't know how this whole situation is going to evolve, nor do we know exactly what has taken place. But I do know, as always, we can thank and be grateful and in our prayers be grateful that we have the finest men and women that this world has ever seen serving in our military who, again, responded to the call of the Commander in Chief in such an outstanding fashion.

Mr. President, I am pleased to join my colleagues in supporting this resolution. When the President, in his unique capacity as Commander in Chief, orders our Armed Forces into action, Congress has an obligation to both affirm our support for the men and women of the United States military who have been ordered to undertake the mission, and our respect for the President as the constitutional officer responsible for the conduct of our military and foreign policies. This is the purpose of the resolution before us, and it is wholly appropriate that the Senate adopt it without dissent.

Such an affirmation does not, however, signal Congress' intention to relinquish our responsibility to make critical judgments about the President's decision, the goals which his decision are intended to achieve, and the efficacy of his administration's policies to secure United States security interests in the Persian Gulf region. Political custom and the importance of assuring our servicemen and women of Congress' support, as well as the necessity of presenting a united front to America's adversaries oblige Members of Congress to refrain from criticizing the administration while military operations are underway. But, we are not expected to permanently defer our constitutional responsibility to either concur with or oppose the President's policy.

I have never shied away from criticizing administration policies in the Persian Gulf or elsewhere when I found them wanting. Neither have I refrained from offering my support to this administration when I believed such support was warranted. I am on record criticizing administration policies for Iraq and the region prior to the initiation of the recent military operation there. I stand by that criticism, but will refrain from elaborating it further until I am confident that the immediate military exigency has passed.

I will reserve judgment on the efficacy of these strikes, and the advisability of the President's subsequent policies in the region until the administration has provided Congress with sufficient information upon which to base an informed judgment.

Toward that end, Mr. President, let me suggest that the administration in briefings and testimony before Congress be prepared to answer certain obvious and basic questions about its purposes and policies in the region beyond simply providing bomb damage assessments and analyses of Iraqi responses to our missile strikes.

Speaking for myself, and, I suspect, many of my colleagues, the necessity of taking some military action against Iraq is apparent. Whether the action ordered by the President was the appropriate response to the threat posed by Saddam Hussein cannot be determined until we have a much fuller understanding of the administration's overall strategy for reducing instability and countering threats to our security interests in the region.

The administration should explain what precise purposes our cruise missile strikes were intended to serve. Were they intended to compel Iraq's complete withdrawal from the Kurdish city of Irbil in the north of Iraq and to cease all aggression against Kurds? Were they intended to persuade Saddam against contemplating renewed aggression against his neighbors to the south? Were they intended to foment opposition to Saddam within the Iraqi military? Was the limited dimension of this operation dictated by the opposition of our allies in the region or does it represent some other consideration which the administration has yet to disclose?

Should Saddam test American resolve further by continuing hostilities in the north, launching new operations against the Shiite minority in the south, flaunting the new no-fly restrictions, firing missiles at U.S. and allied warplanes, or again threatening the territorial integrity of U.S. allies in the region, is the administration prepared to take significantly greater military actions? Will they rebuild the coalition of Desert Storm allies that will almost certainly be necessary if we are obliged to increase our military response? Without the use of bases in Turkey and Saudi Arabia, our military options are obviously very severely limited.

Most important, Mr. President, what are the geopolitical circumstances which the administration wishes to obtain in the Persian Gulf region, and what is its overall, coherent strategy for achieving them which integrates our bilateral policies for all the countries of the region? Until these basic questions are answered, neither I nor any Member of Congress, nor the public we serve can judge not only the efficacy of these strikes, but the administration's ability to protect our most vital security interests in the region, interests for which this country has already paid a very high price to defend.

Mr. President, let me reiterate that none of these unanswered questions cause me nor should they cause any Member of Congress to withhold his or her support for our military personnel tasked with executing the President's decision. Nor should we begrudge the President our respect for his authority or our prayers for the success of his policy. This is the time to give voice to that support as I am confident we will do when we shortly vote on this resolution. The time for critical analysis also begins now. Our conclusions must await another day. That day, however, will not be too distant.

I urge my colleagues to support the resolution.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the resolution. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Oregon [Mr. HATFIELD] and the Senator from Alaska [Mr. MURKOWSKI] are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon [Mr. HATFIELD] would vote "nay."

Mr. FORD. I announce that the Senator from Hawaii [Mr. INOUYE] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 96, nays 1, as follows:

[Rollcall Vote No. 277 Leg.]

YEAS—96

Abraham	Daschle	Jeffords
Akaka	DeWine	Johnston
Ashcroft	Dodd	Kassebaum
Baucus	Domenici	Kempthorne
Bennett	Dorgan	Kennedy
Biden	Exon	Kerrey
Bingaman	Faircloth	Kerry
Bond	Feingold	Kohl
Boxer	Feinstein	Kyl
Bradley	Ford	Lautenberg
Breaux	Frahm	Leahy
Brown	Frist	Levin
Bryan	Glenn	Lieberman
Bumpers	Graham	Lott
Burns	Gramm	Lugar
Byrd	Grams	Mack
Campbell	Grassley	McCain
Chafee	Gregg	McConnell
Coats	Harkin	Mikulski
Cochran	Hatch	Moseley-Braun
Cohen	Heflin	Moynihan
Conrad	Helms	Murray
Coverdell	Hollings	Nickles
Craig	Hutchison	Nunn
D'Amato	Inhofe	Pell

Pressler	Sarbanes	Stevens
Pryor	Shelby	Thomas
Reid	Simon	Thompson
Robb	Simpson	Thurmond
Rockefeller	Smith	Warner
Roth	Snowe	Wellstone
Santorum	Specter	Wyden

NAYS—1

Gorton

NOT VOTING—3

Hatfield	Inouye	Murkowski

The resolution (S. Res. 288) was agreed to.

The preamble was agreed to.

The resolution with its preamble, reads as follows:

S. RES. 288

Whereas the United States and its allies have vital interests in ensuring regional stability in the Persian Gulf;

Whereas on August 31, 1996, Saddam Hussein, despite warnings from the United States, began an unprovoked, unjustified, and brutal attack on the civilian population in and around Irbil in northern Iraq, aligning himself with one Kurdish faction to assault another, thereby causing the deaths of hundreds of innocent civilians; and

Whereas the United States responded to Saddam Hussein's aggression on September 3, 1996 by destroying some of the Iraqi air defense installations and announcing the expansion of the southern no-fly zone over Iraq. Now, therefore, be it

Resolved by the United States Senate, That: The Senate commends the military actions taken by and the performance of the United States Armed Forces, under the direction of the Commander-in-Chief, for carrying out this military mission in a highly professional, efficient and effective manner.

Mr. BOND. I move to reconsider the vote.

Mr. ABRAHAM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DEPARTMENT OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1997

The Senate continued with the consideration of the bill.

AMENDMENT NO. 5159, AS MODIFIED

Mr. BOND. Mr. President, before moving to third reading, I ask unanimous consent to modify amendment number 5159, adopted previously, to correct an inadvertent deletion, typographical error in one of the sections.

Mr. President, this was the Stevens amendment. Inadvertently one paragraph was dropped. This corrects the typographical error.

Ms. MIKULSKI. We have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 5159), as modified, is as follows:

Strike section 432 and used in lieu thereof the following:

SEC. 432. CALCULATION OF DOWNPAYMENT.

Section 203(b) of the National Housing Act (12 U.S.C. 1709(b)) is amended by adding at the end the following new paragraph:

"(10) ALASKA AND HAWAII.—

"(A) IN GENERAL.—Notwithstanding any other provision of this subsection, with respect to a mortgage originated in the State of Alaska or the State of Hawaii, involve a principal obligation not in excess of the sum of—

"(i) the amount of the mortgage insurance premium paid at the time the mortgage is insured; and

"(ii)(I) in the case of a mortgage for a property with an appraised value equal to or less than $50,000, 98.75 percent of the appraised value of the property;

"(II) in the case of a mortgage for a property with an appraised value in excess of $50,000 but not in excess of $125,000, 97.65 percent of the appraised value of the property;

"(III) in the case of a mortgage for a property with an appraised value in excess of $125,000, 97.15 percent of the appraised value of the property; or

"(IV) notwithstanding subclauses (II) and (III), in the case of a mortgage for a property with an appraised value in excess of $50,000 that is located in an area of the State for which the average closing cost exceeds 2.10 percent of the average, for the State, of the sale price of properties located in the State for which mortgages have been executed, 97.75 percent of the appraised value of the property.

"(B) AVERAGE CLOSING COST.—For purposes of this paragraph, the term 'average closing cost' means, with respect to a State, the average, for mortgages executed for properties that are located within the State, of the total amounts (as determined by the Secretary) of initial service charges, appraisal, inspection, and other fees (as the Secretary shall approve) that are paid in connection with such mortgages."

Mr. BOND. Mr. President, I think we are ready for third reading.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

Mr. BOND. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass? The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Oregon [Mr. HATFIELD] and the Senator from Alaska [Mr. MURKOWSKI] are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon [Mr. HATFIELD] would vote "yea."

Mr. FORD. I announce that the Senator from Hawaii [Mr. INOUYE] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 95, nays 2, as follows:

[Rollcall Vote No. 278 Leg.]

YEAS—95

Abraham	Ford	Mack
Akaka	Frahm	McCain
Ashcroft	Frist	McConnell
Baucus	Glenn	Mikulski
Bennett	Gorton	Moseley-Braun
Biden	Graham	Moynihan
Bingaman	Gramm	Murray
Bond	Grams	Nickles
Boxer	Grassley	Nunn
Bradley	Gregg	Pell
Breaux	Harkin	Pressler
Bryan	Hatch	Pryor
Bumpers	Heflin	Reid
Burns	Helms	Robb
Byrd	Hollings	Rockefeller
Campbell	Hutchison	Roth
Chafee	Inhofe	Santorum
Coats	Jeffords	Sarbanes
Cochran	Johnston	Shelby
Cohen	Kassebaum	Simon
Conrad	Kempthorne	Simpson
Coverdell	Kennedy	Smith
Craig	Kerrey	Snowe
D'Amato	Kerry	Specter
Daschle	Kohl	Stevens
DeWine	Kyl	Thomas
Dodd	Lautenberg	Thompson
Domenici	Leahy	Thurmond
Dorgan	Levin	Warner
Exon	Lieberman	Wellstone
Faircloth	Lott	Wyden
Feinstein	Lugar	

NAYS—2

Brown	Feingold

NOT VOTING—3

Hatfield	Inouye	Murkowski

The bill (H.R. 3666), as amended, was passed.

Mr. BOND. Mr. President, I move to reconsider the vote.

Mr. FRIST. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BOND. Mr. President, I move that the Senate insist on its amendments and that it request a conference with the House on the disagreeing votes thereon, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer appointed Mr. BOND, Mr. BURNS, Mr. STEVENS, Mr. SHELBY, Mr. BENNETT, Mr. CAMPBELL, Mr. HATFIELD, Ms. MIKULSKI, Mr. LEAHY, Mr. JOHNSTON, Mr. LAUTENBERG, Mr. KERREY of Nebraska, and Mr. BYRD conferees on the part of the Senate.

Mr. BOND. Mr. President, I want to express my appreciation to all those who helped us through this rather long ordeal. I express a special thanks to the majority and minority leaders for enabling us to finish work on this bill tonight. There was some question whether we were going to be able to get it done tonight. I am very grateful that the arrangements were made so that we could pass it. We have a difficult conference ahead.

I can't let this time pass without saying that my ranking member, the distinguished Senator from Maryland, Senator MIKULSKI, has been an invaluable ally. In addition to representing the interests of the minority side, she has been extremely helpful in expediting and completing action on many of the matters that faced us.

We could not have done this without the work of our trusted and valuable staff. On our side, the chief clerk, Stephen Kohashi, ably assisted by Carrie Apostolou, and Julie Dammann on my staff was essential on our side. Sally Chadbourne has been terrific to work with. I am grateful for her assistance on this. Also, David Bowers and Catherine Corson helped on the minority side.

We are most grateful that this measure had such spirited involvement on so many interesting and challenging issues. It is truly remarkable.

I thank the Chair and yield the floor.

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

U.S. FOREIGN OIL CONSUMPTION: HERE'S WEEKLY BOX SCORE

Mr. HELMS. Mr. President, the American Petroleum Institute reports that for the week ending August 30, the United States imported 6,700,000 barrels of oil each day, 500,000 less than the 7,200,000 imported during the same week a year ago.

Nevertheless, Americans relied on foreign oil for 51 percent of their needs last week, and there are no signs that the upward spiral will abate. Before the Persian Gulf war, the United States obtained about 45 percent of its oil supply from foreign countries. During the Arab oil embargo in the 1970's, foreign oil accounted for only 35 percent of America's oil supply.

Anybody else interested in restoring domestic production of oil by U.S. producers using American workers? Politicians had better ponder the economic calamity sure to occur in America if and when foreign producers shut off our supply, or double the already enormous cost of imported oil flowing into the United States, now 6,700,000 barrels a day.

THE CHEMICAL WEAPONS CONVENTION

Mr. PELL. Mr. President, under a previous unanimous consent agreement, the Senate is scheduled to consider and complete action before the end of next week on the Chemical Weapons Convention.

The Convention bans the production, stockpiling, and use of chemical weapons. It includes detailed verification provisions. It was negotiated in the Reagan and Bush administrations and was based largely on a text personally presented to the Conference on Disarmament in Geneva by then Vice President Bush. The convention represents a significant advance beyond the only existing constraint on chemical weapons, the 1929 Geneva Protocol, which only bans the use of such weapons in war.

Earlier today, several Members expressed concern with regard to the convention. I am sure that those concerns and any others that Members may have will be raised and addressed in detail next week during the total of 12 hours agreed upon for consideration of the treaty.

I personally favor very much ratification of the treaty. I reached that judgment following extensive hearings I chaired in 1994 while chairman of the Senate Committee on Foreign Relations. Additional hearings have been held this year under the chairmanship of the Senator from North Carolina [Mr. HELMS], and, as a result, the Committee has been able to consider a broad range of issues and, in my view, resolve them quite satisfactorily.

The Clinton administration strongly supports the treaty as settled upon during the Bush administration. In its efforts to inform the Senate, I am told that the administration has responded to over 300 Senate questions on the treaty and has responded in detail to inquiries made by members of the Committee on Foreign Relations and others. The administration's responses include over 1,500 pages of information on the Chemical Weapons Convention—over 300 pages of testimony, over 500 pages of answers to Senate letters and reports, over 400 pages of answers to Senate questions for the treaty record, and over 300 pages of additional documentation. During the August recess the White House held a series of briefings for Senate staffers.

This coming Monday at 4 p.m. in S–407 senior administration officials will meet with all Senators in S–407 to discuss the treaty. This will allow all Members an opportunity to assess first-hand the arguments for the treaty and to raise any questions they have. I hope that any Senator with the slightest concern will avail him or herself of the chance to have concerns addressed directly.

As we prepare for formal consideration I thought it would be helpful to my fellow Members to consider a letter I received this afternoon from the President's Assistant for National Security Affairs, Anthony Lake, addressing in detail some of the questions that have been raised regarding the treaty. The letter included an enclosure, a portion of which is classified, which is available in committee offices for interested Members. I ask unanimous consent that Mr. Lake's letter be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PELL. Mr. President, there is no question that this convention enjoys the overwhelming support of the Nation's chemical industries. On August 29, I and other Senators received a letter strongly endorsing the convention and arguing for Senate consent to ratification. This letter was authored by senior officials of a number of significant corporations. I ask unanimous consent that the text of that letter also be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. PELL. Mr. President, I look forward to the debate on the convention when it comes before the Senate next week.

EXHIBIT 1

THE WHITE HOUSE,
Washington, September 5, 1996.

DEAR SENATOR PELL: As we continue to prepare for the Senate's floor debate on the Chemical Weapons Convention (CWC) two weeks from now, I want to share with you the basic points we have made recently in responding to certain concerns that have been raised by the Chairman of the Foreign Relations Committee.

Senator Helms has questioned whether Russia will ever ratify the CWC. As you are aware, the Russian Government has formally stated its commitment to become a party to the CWC, as recently as July 22 of this year at the Plenary meeting of the CWC Preparatory Commission (PrepCom) in The Hague. In this same statement, the Russian Government announced that it is seeking the speedy submission of the Convention to the Russian parliament for ratification.

In my view, the recent Russian statement in The Hague, which mentioned the issue of entry into force, does not reflect an intention to distance Russia from the CWC, but rather a concern about being left behind. In these circumstances, I believe that the best way to promote Russian ratification is to proceed with our own ratification, as has been done by all of our major NATO allies and many others, and to bring the CWC into force as soon as possible while, at the same time, trying to address Russian concerns in a manner consistent with our own interests.

We have forthrightly told the Russians that we believe that prompt entry into force of the Convention is crucial to the fight against the spread of weapons of mass destruction and the fight against terrorism. Consequently, we have informed them that we are moving forward with our own ratification and have urged that they continue to proceed ahead with their effort as well.

The Russians have clearly stated that the central problem they face regarding the CWC is financing the cost of their CW destruction program. While requesting international assistance, the Russians have also made it clear, most recently in their Plenary Statement in The Hague, that the program will be financed primarily by Russia itself. We and other countries have indicated our willingness to address this outstanding concern on an expedited basis, but we have continued to underscore to the Russians that CW destruction is primarily their responsibility and that any U.S. assistance is contingent upon approval by the U.S. Congress.

Senator Helms has also raised concerns with regard to the 1990 Bilateral Destruction

Agreement (BDA). The Russian Federation, as you know, has long expressed concerns about certain aspects of this agreement and has not agreed to detailed implementing procedures and updated provisions to finalize the BDA. We continue to press the Russians at the highest levels on the need to resolve the outstanding CW issues, and they agreed to a meeting with ACDA Director Holum, which was held on August 10. They also agreed to host a visit to Volgograd later this fall to address specifically the issue of conversion of production facilities. While the Russians have stated that they believe that the bilateral agreements between Russia and the United States have fulfilled their useful role, they have also stated that they will not renege on the agreements they have made.

As for the Chairman's specific concerns about the possible consequences of Russian withdrawal from the BDA, I would point out that if the BDA is not in force when the CWC is implemented, Russian chemical weapons elimination will still be subject to systematic verification under the CWC, although that would be performed by the Organization for the Prohibition of Chemical Weapons (OPCW), instead of the United States. It is important to remember that, in contrast to the CWC, the BDA does not require total destruction of CW stocks nor does it provide a multilateral framework including challenge inspections for addressing compliance concerns. As you may recall, the President informed the Senate in 1993 in transmittal of the CWC that, while the BDA was an important agreement in its own right, it has become less relevant than it was in 1990 because the CWC has been completed and that final agreement on the BDA should not delay submission of the CWC to the Senate.

Some have the impression that Russia is "withdrawing" from the 1989 Wyoming Memorandum of Understanding. This agreement has been implemented in two phases. During the first phase, the two sides exchanged general information on their chemical weapons stockpiles and production and storage facilities and carried out reciprocal visits to relevant military and civilian facilities. During the second phase, the two sides exchanged the detailed information on their stockpiles and chemical weapons facilities and carried out a number of inspections at declared chemical weapons production, storage and development facilities, including challenge inspections of such facilities.

While Russia has met its obligations to participate in implementation activities under the Memorandum of Understanding, questions remain regarding certain aspects of the Russian data. We are continuing to press the Russians at the highest levels on the need to resolve these outstanding CW issues.

In any case, I have stressed to Senator Helms that the Administration is prepared to actively pursue concerns regarding the veracity of any State Party's reporting under the CWC, since the provision of accurate declaration information is a fundamental obligation essential to the effective implementation of the Convention. The Administration also continues to believe that prompt entry into force of the CWC will provide the necessary tools to deal effectively with these issues, including a basis for punitive measures or sanctions in response to noncompliance.

Finally, we have carefully considered the Chairman's request for declassification of any documents and cables pertaining to bilateral discussions with Russia. As you know, it is our standard practice to make relevant classified information available to the Senate through classified briefings and reports. The Administration has provided the Senate with numerous briefings and reports of this sort since November 23, 1993, when the President submitted the CWC with a request for its prompt consideration. I informed Senator Helms that I regretted that we cannot declassify the requested documents, because they have been properly classified pursuant to E.O. 12958 and because disclosure of the information they contain could seriously undermine ongoing diplomatic activities. The Administration is eager, however, to assist the Senate in developing a complete record for its consideration prior to floor action on the Chemical Weapons Convention, as stated in the June 28, 1996 unanimous consent agreement pertaining to the Convention. Therefore, I made clear to the Chairman that we are prepared to make appropriate officials available to Senators and cleared staff to brief on those documents under appropriate classification at the earliest date.

We look forward to Senate advice and consent to the CWC by September 14. Enclosed please find the detailed answers we provided the Chairman in response to the questions he had recently raised.

Sincerely,

ANTHONY LAKE,
Assistant to the President for National Security Affairs.

EXHIBIT 2

AUGUST 29, 1996.

Hon. CLAIBORNE PELL,
U.S. Senate,
Washington, DC.

DEAR SENATOR PELL: The undersigned senior executives of chemical companies urge your vote in support of the Chemical Weapons Convention (CWC), and quick Senate action on legislation to implement this important treaty.

The chemical industry has long supported the CWC. Our industry participated in negotiating the agreement, and in U.S. and international implementation efforts. The treaty contains substantial protections for confidential business information (CBI). We know, because industry helped to draft the CBI provisions. Chemical companies also help test the draft CWC reporting system, and we tested the on-site inspection procedures that will help verify compliance with the treaty. In short, our industry has thoroughly examined and tested this Convention. We have concluded that the benefits of the CWC far outweigh the costs.

Indeed, the real price to pay would come from not ratifying the CWC. The treaty calls for strict restrictions on trade with nations which are not party to the Convention. The chemical industry is America's largest export industry, posting $60 billion in export sales last year. But our industry's status as the world's preferred supplier of chemical products may be jeopardized if the U.S. does not ratify the Convention. If the Senate does not vote in favor of the CWC, we stand to lose hundreds of millions of dollars in overseas sales, putting at risk thousands of good-paying American jobs.

The U.S. chemical industry has spent more than 15 years working on this agreement, and we long ago decided that ratifying the CWC is the right thing to do.

We urge you to vote in support of the Chemical Weapons Convention.

Sincerely,

J. Lawrence Wilson, Chairman & CEO, Rohm and Has Company, Chairman, Board of Directors, Chemical Manufacturers Association; Alan R. Hirsig, President & CEO, ARCO Chemical Company, Chairman, Executive Committee, Chemical Manufacturers Association; H.A. Wagner, Chairman, President & CEO, Air Products & Chemicals, Inc.; D.J. D'Antoni, President, Ashland Chemical Company; Helge H. Wehmeier, President & CEO, Bayer Corporation; John D. Ong, Chairman & CEO, The BFGoodrich Company; Robert R. Mesel, President, BP Chemicals, Inc.; Charles M. Donohue, Vice President, Akzo Nobel Chemicals, Inc.; J. Dieter Stein, Chairman & CEO, BASF Corporation; W.R. Cook, Chairman, President & CEO, Betz Dearborn, Inc.; Joseph M. Saggese, President & CEO, Borden Chemicals & Plastics, LP; Dr. Aziz I. Asphahani, President & CEO, Carus Chemical Company; Vincent A. Calarco, Chairman, President & CEO, Cromption & Knowles Corporation; Richard A. Hazleton, Chairman & CEO, Dow Corning Corporation; Howard J. Rudge, Senior Vice President & General Counsel, E.I. duPont de Nemours & Company; Richard G. Fanelli, President & CEO, Enthone-OMI Inc.; J.E. Akitt, Executive Vice President, Exxon Chemical Company; William S. Stavropoulos, President & CEO, The Dow Chemical Company; Earnest W. Deavenport, Jr., Chairman of the Board & CEO, Eastman Chemical Company; Bernard Azoulay, President & CEO, Elf Atochem North America; Bruce C. Gottwald, CEO, Ethyl Corporation; Ron W. Haddock, President & CEO, FINA, Inc.; Robert N. Burt, Chairman & CEO, FMC Corporation; Otto Furuta, V.P. Global Logistics & Materials Management, Great Lakes Chemical Corporation; R. Keith Elliott, President & CEO, Hercules, Inc.; Hans C. Noetzli, President & CEO, Lonza, Inc.; Robert G. Potter, Executive Vice President, Monsanto Company; Dr. William L. Orton, Senior Vice President, Chemical Operations, Givaudan-Roure Corporation; Michael R. Boyce, President & COO, Harris Chemical Group; Thomas F. Kennedy, President & CEO, Hoechst Celanese Corporation; Mack G. Nichols, President & COO, Mallinckrodt Group, Inc.; S. Jay Steward, Chairman & CEO, Morton International, Inc.

E.J. Mooney, Chairman & CEO, Nalco Chemical Company; Jeffrey M. Lipton, President, NOVA Corporation; Donald W. Griffin, Chairman, President & CEO, Olin Corporation; Peter R. Heinze, Senior Vice President, Chemicals, PPG Industries, Inc.; Phillip D. Ashkettle, President & CEO, Reichhold Chemicals, Inc.; Ronald L. Spraetz, V.P., External Affairs & Quality, National Starch & Chemical Company; J. Roger Hirl, President & CEO, Occidental Chemical Corporation; David Wolf, President, Perstorp Polyols, Inc.; Ronald H. Yocum, Chairman, President & CEO, Quantum Chemical Company; Thomas E. Reilly, Jr., Chairman, Reilly Industries, Inc.; Peter J. Neff, President & CEO, Rhone-Poulenc, Inc.; Nicholas P. Trainer, President, Sartomer Company; J. Virgil Waggoner, President & CEO, Sterling Chemicals, Inc.; W.H. Joyce, Chairman, President & CEO, Union Carbide Corporation; Arthur R. Sigel, President & CEO, Velsicol Chemical Corporation; Roger K. Price, Senior V.P., Mining & Manufacturing, R.T.

Vanderbilt Company, Inc; F. Quinn Stepan, Chairman & President, Stepan Company; William H. Barlow, Vice President, Business Development, Texas Brine Corporation; Robert J. Mayaika, President, CEO & Chairman, Uniroyal Chemical Company, Inc.; John Wilkinson, Director of Government Affairs, Vulcan Chemicals; Albert J. Costello, Chairman, President & CEO, W.R. Grace & Company.

PROTECTING U.S. BUSINESSES OPERATING ABROAD

Mr. SHELBY. Mr. President, I rise today to inform my colleagues in the Senate of another case where a foreign government is punishing an American company for no legitimate reason. The United States must stand up against such actions by foreign governments and end such unfair and unwarranted treatment of our citizens.

Some years ago, two of my constituents, Bill and Allan MacDonald, respected businessmen in Alabama and the United States, invested in Bermuda's struggling cable television system. The MacDonalds were encouraged to make their initial investment by the Bermudian Government because of the poor state of the cable television system. The MacDonalds devoted not only sizeable amounts of time and energy to this effort, but they also invested sizeable amounts of their own money to upgrade the cable television system.

Contrary to the expectations of some Bermudians, the MacDonalds turned the company around and the company began making money. As soon as the business began to do well, some Bermudians began to try to wrest the business away from the MacDonalds. These Bermudian citizens, with the help of their Government, are determined to take control of the company away from the MacDonalds now that the company is doing well. My question to the Senate today is: Will the U.S. Government let this happen?

Mr. President, the U.S. Government and the State Department in particular must do a better job of protecting U.S. businesses operating abroad. We must make sure that foreign countries know that we will not tolerate unfair trade practices against American companies or citizens.

Mr. President, I do not know if we can get the Bermudian Government to treat the MacDonalds fairly, but one thing we can do is make sure that Bermudian companies do not receive more favorable treatment in the United States than United States companies receive in Bermuda. It is my understanding that a Bermudian company, Telebermuda, has applied for a general landing license to the Federal Communications Commission [FCC]. Under U.S. law the FCC may not grant such a license without the approval of the Secretary of State. In addition, this same law states that "the President [FCC] may withhold * * * such license when he shall be satisfied after notice and hearings that such action will assist . . . in maintaining the rights or interests of the United States or of its citizens in foreign countries * * * ." I have requested the Secretary of State to withhold his approval of Telebermuda's license application, until the case involving my constituents is resolved.

Mr. President, this case is not only important to my constituents, it is important for all businesses who operate overseas. It is our duty to ensure that they are treated fairly. We cannot allow foreign governments to take advantage of U.S. businesses. If the Bermudian telephone monopoly or other Bermudian interests want to buy the MacDonalds interest in Bermuda Cable they should pay the fair market price for the MacDonalds interest in the company. Mr. President, I am not asking for special treatment for the MacDonalds, but I believe they are entitled to receive justice.

Mr. President, I hope that the Bermudian Government will reexamine this situation involving my constituents and determine that it is in their best interest to treat all businesses fairly and not punish people because they are from the United States or other foreign countries.

THE YEAR 2000 COMPUTER PROBLEM

Mr. MOYNIHAN. Mr. President, on the 31st of July, I took the liberty of writing to the President concerning a problem that could have extreme negative economic consequences in the year 2000 when we will have to make the transition of computers from the 20th to the 21st century.

This is a matter that will necessarily concern the Congress. I ask unanimous consent that my letter to the President and a summary of an accompanying report by Richard M. Nunno be printed in the RECORD at this point. Cost considerations prevent having the entire report printed in the RECORD. The report can be obtained from the Congressional Research Service.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., July 31, 1996.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: I hope this letter reaches you.

I write to alert you to a problem which could have extreme negative economic consequences during your second term. The "Year 2000 Time Bomb." This has to do with the transition of computer programs from the 20th to the 21st century.

The main computer languages from the '50s and '60s such as COBOL, Fortran, and Assembler were designed to minimize consumption of computer memory by employing date fields providing for only six digits. The date of this letter in "computerese," for example, is 96-07-31. The century designation "19" is assumed.

The problem is that many computer programs will read January 1, 2000 as January 1, 1900. Computer programs will not recognize the 21st century without a massive rewriting of computer codes.

I first learned of all this in February and requested a study by the Congressional Research Service. The study, just now completed, substantiates the worst fears of the doomsayers. (A copy of the CRS study is attached.) The Year 2000 problem ("Y2K") is worldwide. Each line of computer code needs to be analyzed and either passed on or be rewritten. The banking system is particularly vulnerable. A money center bank may have 500 million lines of code to be revised at a cost of $1 per line. That's a $500 million problem. (I learn from Lanny Davis that his client, the Mars Company, estimates the cost of becoming Y2K date compliant at $100 million to $200 million. Mars is only a candy company.) One would expect that a quick fix of the problem would have been found but it hasn't happened and the experts tell me it is not likely.

There are three issues. First, the cost of reviewing and rewriting codes for Federal and state governments which will range in the billions of dollars over the next three years. Second, the question of whether there is time enough to get the job done and, if not, what sort of triage we may need. I am particularly concerned about the IRS and Social Security in this respect. Third, the question of what happens to the economy if the problem is not resolved by mid-1999? Are corporations and consumers not likely to withhold spending decisions and possibly even withdraw funds from banks if they fear the economy is facing chaos?

I have a recommendation. A Presidential aide should be appointed to take responsibility for assuring that all Federal agencies including the military be Y2K date compliant by January 1, 1999 and that all commercial and industrial firms doing business with the Federal government also be compliant by that date. I am advised that the Pentagon is further ahead on the curve here than any of the Federal agencies. You may wish to turn to the military to take command of dealing with the problem.

The computer has been a blessing; if we don't act quickly, however, it could become the curse of the age.

Respectfully,

DANIEL PATRICK MOYNIHAN.

THE YEAR 2000 COMPUTER CHALLENGE

(By Richard M. Nunno)

SUMMARY

Most computer systems in use today can only record dates in a two-digit format for the year. Under this system, computers will fail to operate properly when years after 1999 are used, because the year 2000 is indistinguishable from 1900. This problem could have a serious impact on a wide range of activities that use computers. Information systems must be inspected, and modified, if necessary, before January 1, 2000 to avoid major system malfunctions.

Many managers initially doubted the seriousness of this problem, assuming that an easy technical fix would be developed. Several independent research firms, however, have refuted this view, with the conclusion that inspecting all computer systems and converting date fields where necessary and then testing modified software will be a very

time-consuming and costly task. Research firms predict that due to a lack of time and resources, the majority of U.S. businesses and government agencies will likely not fix all of their computer systems by the start of the new millennium.

Most agencies and businesses have come to understand the difficulties involved, although some have not yet started implementing changes. Several companies have emerged offering services to work on the year-2000 conversion, and software analysis products are commercially available to assist with finding and converting flawed software code. Even with the assistance of these products, however, most of the work will still have to be done by humans.

Federal agencies are generally aware of the year-2000 challenge and most are working to correct it. Agencies that manage vast databases, conduct massive monetary transactions, or interact extensively with other computer systems, face the greatest challenge. An interagency committee has been established to raise awareness of the year-2000 challenge and facilitate federal efforts at solving it. The interagency committee has initiated several actions, such as requiring vendor software listed in future federal procurement schedules to be year-2000 compliant and specifying four-digit year fields for federal computers. The shortage of time to complete year-2000 computer changes may force agencies to prioritize their systems. Agencies may also need to shift resources from other projects to work on year-2000 efforts. State and local governments, as well as foreign organizations, will also have significant year-2000 conversion problems.

Congressional hearings have been held recently to investigate the year-2000 challenge, and a legislative provision was introduced directing the Defense Department to assess the risk to its systems resulting from it. Several options exist for congressional consideration. One option is to provide special funding to federal agencies for year-2000 conversion. While agencies are reluctant to request additional funds, some observers contend this may be necessary. Another option is to give agencies increased autonomy in reprogramming appropriated funds for year-2000 efforts. A third, less controversial alternative is to continue to raise public awareness through hearings and by overseeing federal efforts.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, September 4, the Federal debt stood at $5,228,998,407,724.89.

Five years ago, September 4, 1991, the Federal debt stood at $3,617,415,000,000.

Ten years ago, September 4, 1986, the Federal debt stood at $2,113,008,000,000.

Fifteen years ago, September 4, 1981, the Federal debt stood at $979,768,000,000.

This reflects an increase of more than $4,249,230,407,724.89 during the 15 years from 1981 to 1996.

AVIATION SECURITY CHALLENGES

Mr. PRESSLER. Mr. President, I rise today to discuss the vitally important issue of aviation security challenges. Last month, the Commerce Committee which I chair held an open hearing to examine aviation security. Later this month, we will hold a closed hearing to further consider this vitally important issue.

At the outset, let me stress that the United States continues to have the best aviation safety record in the world. Every day, 1.5 million people fly commercially in the United States and we have a marvelous record of getting passengers safely to their destinations. Regrettably, however, recent incidents have caused the traveling public great anxiety. It is our responsibility to help reassure the public of our superb air safety record.

Impressive as U.S. aviation safety statistics are, we cannot rest on our laurels. Statistics are no comfort to a family which has lost a loved one or friend in an aviation tragedy. On a bipartisan basis, Congress and the administration must constantly strive to do better in the area of aviation safety. In fact, I believe we must rededicate ourselves to the goal of zero aviation accidents, whether caused by safety lapses, security breaches, or other factors.

Today, I would like to briefly discuss three points.

First, it is imperative that Congress and the administration resist the temptation to rush to embrace any simple solution to the very complex aviation security challenges we face. Rather, an effective aviation security program depends on a number of components working together in a coordinated manner to form a virtual security net protecting the traveling public. These elements include: the collection of intelligence information used to identify potential threats; coordination of efforts by law enforcement agencies to interdict threats; human factors including effective passenger screening; and technology. As is the case with any system, aviation security is only as strong as the weakest link in the security chain.

Each of these components needs to be improved. In the areas of technology and human factors, there is vast room for improvement. Simply put, we can do a better job protecting the traveling public. We must do a better job.

In recent weeks the aviation security debate has understandably focused on the lack of explosive detection capability in our Nation's airports. This focus is well placed. After all, in 1990 Congress recognized explosive detection systems needed to be installed in our airports and directed FAA to mandate deployment of such systems by November 1993. Yet today—nearly 6 years later and after the Federal Aviation Administration [FAA] has spent more than $150 million in taxpayer money on explosive detection research—our airports continue to lack the capability to screen checked baggage for explosives. To make matters worse, our airports stand out as soft targets for aviation terrorism because many airports around the world already have put in place U.S.-manufactured explosive detection devices as part of their heightened security measures.

While I am pleased we are finally field testing a FAA-certified explosive detection system, the current absence of explosive detection capability in our airports raises a fundamental policy question: Should Congress require interim deployment of existing explosive detection devices until a FAA-certified explosive detection system successfully completes operational testing and is available in sufficient quantities to be deployed at least in our highest risk airports? I strongly believe the answer is yes. We should take a very hard look at those U.S.-manufactured bulk and trace explosive detection devices which currently are widely used around the world.

Tempting as it is, however, I hope the aviation security debate does not continue to be transfixed on technology. For instance, I am equally concerned about the shortcomings in so-called aviation security human factors. Passenger screening personnel are our most visible line of defense at airports. Unfortunately, all too often they are inadequately trained and suffer from a very high rate of turnover. Currently, companies hired by airlines to provide screening services at our Nation's airports are not subject to any certification requirement. Similarly, screening personnel are not required to be certified. We should carefully consider whether such certification requirements would provide the quality control assurance we expect and the traveling public deserves. At the same time, Congress should not overlook measures that should be taken to strengthen the intelligence gathering and enforcement elements of our aviation security system.

As the aviation security debate continues, our goal should be nothing less than improving every component of our security system and ensuring we have no weak links.

Second, Congress and the administration must be very cautious to avoid a "one size fits all" approach to aviation security policy. The security challenges faced by small airlines and small airports are truly unique. They differ markedly from those faced by international carriers and major hub airports. Accordingly, it is critically important these differences are not overlooked in a rush to heighten aviation security standards.

Earlier this year, the U.S. General Accounting Office [GAO] released a study I requested which found that many small communities across the country currently suffer from inadequate air service. Having just returned from my home State of South Dakota where maintaining adequate air service is a day-to-day struggle, I

can report from the front lines that GAO is absolutely correct. Even where a small community is lucky enough to have air service, often that service is economically fragile. Even a small economic shock can sever a community's only remaining air service link to our national air service network.

Passengers traveling to and from small cities must have the same level of security as those traveling to and from large hub airports. I believe, however, there are thoughtful ways of accomplishing this goal without toppling this fragile economic balance. For instance, is it good policy to force a small community like Mitchell, SD, which had just 34 commercial boardings in July to install at its airport a CTX–5000 explosive detection machine costing $1 million? How about Brookings, SD, and Yankton, SD, which in July had 104 and 112 boardings respectively? I believe the answer clearly is no, particularly since hand searching of selected luggage at our small airports is a viable, cost-effective and common sense alternative.

Unfortunately, this kind of "one size fits all" approach was embraced by the House last month when it adopted Section 111 of the Aviation Security and Antiterrorism Act of 1996 which calls for new, costly security measures to be imposed on small airlines. I have no doubt this is a well-intentioned provision. However, it fails to recognize FAA's ongoing assessment of the threat faced by small airlines and the unique security needs of passengers traveling on such carriers. One thing is certain—this expensive, unfunded mandate likely would cause a further erosion of air service in our small cities and that is why I will oppose it in the Senate.

Before I move on to my final point, let me reiterate that persons traveling to and from small communities deserve the same level of security as those traveling in larger markets. Due to profound differences in both passenger numbers and in threat levels, however, we can meet this goal without resorting to the identical, very expensive measures called for in our major international hub airports. Continued air service to many small communities depends on an appreciation of this simple, but critically important, point.

The final point I wish to discuss today is that the enormous potential cost of security upgrades requires that heightened security measures be based on the philosophy of focussing limited resources on the most threatening passengers and cargo. For that reason, I have advocated the use of passenger profiling as the ideal way to weed out non-threatening passengers and thereby enabling airlines to target security resources more effectively. I stressed this point in the Commerce Committee's aviation security hearing last month and want to reemphasize it today.

As in the case of explosive detection systems, the problem in the United States is not developing sophisticated weapons to fight aviation terrorism, the problem is deploying them. Passenger profiling is another case in point. While countries with highly regarded aviation security systems such as Israel and the Netherlands put great emphasis on passenger profiling, thus far we have failed to follow their lead. What makes this so remarkable is U.S. carriers have long recognized the security benefits of passenger profiling and Northwest Airlines, in close cooperation with the FAA, recently developed perhaps the most sophisticated automated profiling system available. I am very pleased that FAA is working closely with Northwest to put the finishing touches on this system and to make it available to other airlines as soon as possible.

In my view, using passenger profiling as the bedrock of any aviation security system is good common sense policy. This is especially the case when one considers the cost of explosive detection systems, the limited space available in many of our airports for such systems, and the commercial need for our airlines to avoid unnecessary ground delays. An increased reliance on passenger profiling as the first step in assessing passenger threats makes perfect sense. It can help make an overall aviation security program effective, quick and efficient for the traveling public. At the same time, it can help make heightened security measures cost-effective and operationally viable for our airlines.

Is passenger profiling a flawless or foolproof piece to our aviation security puzzle? No. Short of grounding all airplanes, no perfect solution exists. However, automated passenger profiling holds great promise as a key part of an integrated aviation security system. For instance, Northwest's system looks at more than 100 criteria for each passenger and—based on a ranking system and parameters that can be flexibly set based on perceived threats in any market—calculates which passengers should receive special security attention. Although no system can predict human behavior with 100 percent accuracy, this system appears to hold the promise of helping to allocate security resources with a very high probability of certainty.

In addition, I am sensitive to the concerns some have raised about the constitutional implications of passenger profiling. While much has been written about potential economic costs of heightened aviation security measures, inevitably there will be civil liberties costs as well. As with economic considerations, we must balance costs and benefits. Considering that passenger profiling looks at an enormous number of varied factors, I believe any civil liberties costs resulting from passenger profiling will be very minimal compared to the significant social benefits resulting from minimizing public anxiety about the security of air travel.

Let me conclude by reiterating that we can, and we must, do a better job in aviation security. If Congress, the administration, airlines and airports work cooperatively in the spirit of making every component of our security system as strong as possible, I have no doubt we will meet this challenge.

TRIBUTE TO LORET MILLER RUPPE

Mr. DODD. Mr. President, I rise to pay tribute to Loret Miller Ruppe, a woman of uncompromising dedication for peace at home and abroad, who died at the age of 60. In addition to her remarkable career as the Director of the Peace Corps from 1981 to 1989 and Ambassador to Norway from 1989 to 1993, Loret Miller Ruppe was a beloved wife to former Rep. Philip Ruppe (R-Mich), mother of five daughters, sister to six siblings, and grandmother of three.

Her accomplishments were vast and far reaching, her constitution strong, and her character was humble yet filled with passion. Her main passion was for peace. She struggled relentlessly to promote peace and justice throughout the developing world and here at home. In a speech celebrating the 35th Anniversary of the Peace Corps Mrs. Ruppe spoke about the future of the organization and its mission, "Peace, that beautiful five-letter word we all say we crave and pray for, is up for grabs in the '90's." For her, peace was not simply the absence of war, but the absence of the conditions that bring on war such as hunger, disease, poverty, illiteracy, and despair. Mrs. Ruppe worked hard to protect the fragile state of peace in regions around the globe. She achieved this goal through supervising programs in more than 93 countries, serving as a role model to field volunteers, and strengthening the Peace Corps organization.

Mrs. Ruppe also fought battles at home. When President Reagan appointed her in 1981, the Peace Corps budget was rapidly declining and was less than that of the military marching bands. By the end of Mrs. Ruppe's tenure she had succeeded in increasing the agency's budget almost 50 percent. In addition to budgetary challenges, Mrs. Ruppe gave the agency a political facelift by projecting the agency as nonpartisan, despite the fact that she herself was a political appointee, and increasing its viability on both national and local levels. As she noted "We took Peace Corps out of the pit of politics

and made it non-partisan. It must always signify Americans pulling together for peace." As a result of her efforts, Mrs. Ruppe was respected and admired by Democrats and Republicans alike. In terms of national visibility, she brought much needed congressional and executive level attention to the Peace Corps. Prior to her leadership the organization was nicknamed "the corpse" and many believed its end was near. Under her command however, the organization was revitalized and its future secured. On a local level, she worked hard to increase young Americans' interest in participating in the program. By 1989, she had raised the number of volunteers by 20 percent.

Mrs. Ruppe was also an initiator who maintained the simple motto "we can do it." She founded three important programs which continue to thrive today: The African Food Initiative, Women in Development, and the Leadership for Peace Program. Additionally, she brought seven new countries to the Peace Corps program.

As the longest tenured director of the Peace Corps, Mrs. Ruppe contributed much indeed to the organization. It was through her vision, dedication, and leadership that the Peace Corps continues to play a vital role in American foreign aid efforts. Under Mrs. Ruppe's leadership the organization responded to new challenges, transformed itself, and now stands prepared to continue promoting peace in the next century. Mrs. Ruppe's absence will be felt throughout the world. I will especially miss her. To me Loret was more than a dedicated and gifted public servant—she was my friend. I know her husband Philip, her daughters Antoinette, Adele, Katherine, Mary, and Loret will miss her very much, and so will I.

Mr. President, I know that all of our colleagues join with me in extending our sincere condolences to her family members.

200TH BIRTHDAY OF LIBERTY HALL

Mr. FORD. Mr. President, October 2, 1996 will mark the 200th birthday of Liberty Hall in Frankfort, KY. This historic hall is one of Kentucky's finest 18th century-homes, serving as the residence for U.S. Senator John Brown and four generations of his family.

Senator Brown was one of Kentucky's first U.S. Senators, holding office from 1792 to 1805. He was known as a strong advocate and voice for the developing lands west of the Allegheny Mountains. At the time of his death, he had the distinction of being the last living member of the Continental Congress.

Liberty Hall itself has been a house museum since 1937. Its architecture and gardens rank it among the finest homes in the country of that period. Constructed by Senator Brown between 1796 and 1800, the house was named after his father's grammar school in Virginia.

The celebration of this fine home's 200th birthday, not only highlights an important landmark in Kentucky's history, but also serves as a tribute to the preservation movement and its achievements in Kentucky.

I hope all those who visit Kentucky's capital city, Frankfort, will take time to visit Liberty Hall to not only see a beautiful 18th century mansion, but also learn about this honorable man who contributed so much to Kentucky and the Nation.

THREE CHEERS FOR CRANSTON WESTERN

Mr. CHAFEE. Mr. President, during the August recess, 14 youngsters from Cranston, RI, achieved something that no Rhode Islanders had ever achieved before. On August 22, the Cranston Western Little League All-Stars were crowned the National Champions at this year's Little League World Series in Williamsport, PA.

Mr. President, I know we are dealing with important matters here. But this is an important matter also. This wonderful team of youngsters from our State first had to win the State championship. Then they went to the national championships in Williamsport where they defeated—can you believe it—California 5 to 1. Three days later in front of 17,000 fans and a national television audience they defeated the team that had previously defeated them, namely the heavily favored Panama City, FL, team which put them into the world championship game. That was against Chinese Taipei.

I think for anyone who follows the Little League baseball knows that the Chinese Taipei team was always an outstanding one and, indeed, they did win against the Cranston Western All-Stars.

This was truly an amazing accomplishment. When Cranston Western started down this road, it was just one of several thousand teams across the country vying for the right to play for the world championship. To get into the World Series, it had to win three mini-tournaments against the best teams in Rhode Island, and then in the Northeast, over the course of 2 months.

Listen to some of these last-minute heroics. It took a home run in the tenth inning just to advance beyond the district playoffs. Then they had to win three straight games, including two in a row over a previously undefeated South Kingstown team, to stave off elimination in the State tournament. And in the final game of the East Regionals, Cranston Western needed a game-saving, diving catch by their left fielder, and then a three-run homer in the bottom of the seventh, to overcome a tough Pennsylvania squad.

Once they got to Williamsport, the job only got tougher. History certainly was not on their side. Indeed, Cranston Western was only the third team from Rhode Island to make it to the Little League World Series, and the first to do so since 1980. And in neither of those two cases did a Rhode Island team win a single game at the national level. What's more, in the first game, they had to face California—a State that had produced 5 World Series champions and had been represented in the tournament a record 32 times.

But these courageous, young Rhode Islanders proved their mettle. They shook off any butterflies they might have had, and defeated the Californians by a 5 to 1 score. Three days later, in front of 17,000 fans and a national television audience, they avenged an earlier loss to heavily favored Panama City, FL. That win put them in the world championship game.

Unfortunately, Cranston Western came up short in the World Series final against Chinese Taipei. But that loss in no way diminished what these boys from the city of Cranston accomplished. They were front page news in Rhode Island for a solid week. Nearly every television in the State—whether in private homes or restaurants—was tuned to the final game. And when they returned home they received a hero's welcome, complete with a police escort from the Connecticut border and a fireworks display in their hometown.

What did these boys learn from their experience this summer? I can think of three things.

First, they learned that you don't have to be the biggest, or the strongest, or even the most-talented to succeed in life. While those attributes are important, they're meaningless without heart, grit, and fierce determination. And Cranston Western led the pack in those three categories.

Second, they learned that practice really does make perfect. Throughout the summer, the team spent nearly every waking moment on the baseball diamond, whether it was at official practices or playing pick-up games. Moreover, at the beginning of their championship run, every player made a commitment to the team not to miss a single practice. And each one of them lived up to that commitment.

Third, and I believe most importantly, they learned to place a high value on teamwork. No single player could be counted on to carry the load alone. Each member of that team made a crucial contribution at one point or another. That's a critical lesson I hope these little leaguers will remember for the rest of their lives.

And Mr. President, as I'm sure they would tell you, these boys had a lot of help along the way. There was their very capable manager, Mike Varrato. He was the one who set the lineup, arranged the defense, and made sure the

team was physically and mentally ready to play every day.

They had veteran coaches Nick Dinezza and Larry Lepore. These two men helped the pitchers with their location, threw batting practice, and hit hundreds, if not thousands, of ground balls to the infielders and fly balls to the outfielders. There's no doubt that on many occasions, the coaches went home more tired than the young ballplayers.

And, of course, there were the parents. You've never seen a more loyal group. They scheduled family meals around games and practices. They gave up summer vacations at the beach to follow their sons from one venue to the next. During the games, they rang cowbells, and banged pots and pans, and did whatever it took to rally the troops. They cheered mightily when their boys won, and hugged them and reassured them the few times that they lost. And I'm sure they never hesitated to voice their opinions whenever the umpires made a bad call.

And so, I want to offer my heartiest congratulations to the members of the Cranston Western Little League team, and all who were associated with their championship season. They stirred an enormous amount of pride in Rhode Island, and made for a very exciting August in our State.

Mr. President, I ask unanimous consent that a copy of the team roster be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CRANSTON WESTERN LITTLE LEAGUE ALL-STARS—1996 LITTLE LEAGUE NATIONAL CHAMPIONS

Lucas Ashton; Jake Bazirgan; Brett Bell; Lew Colby; Evan Dizoglio; Chris Gallo; Matt Lovejoy; Michael Luke; Tom Michael; Jay Sparling; Peter Spinelli; Craig Stinson; Rick Stoddard; and Paul Tavarozzi.

NOTE

[In yesterday's RECORD beginning on page 21863, a colloquy between Senators CRAIG, BOND, and INHOFE appears with material omitted. The permanent RECORD has been corrected to reflect the following.]

PARTICULATES RULEMAKING

Mr. CRAIG. If I might ask the distinguished chairman of the Subcommittee on VA, HUD, and Independent Agencies Appropriations about the EPA review of the national ambient air quality standard for particulate matter. I understand that there are recent epidemiological studies that indicate a correlation between exposure to air polluted with particulates and adverse human health effects, and that EPA is studying this matter as a high priority.

Mr. BOND. I thank the Senator from Idaho for raising this important point. The EPA has indicated to our committee that it is highly concerned about the health effects of particulates. We have met the EPA's request for funding for this program, and included $18.8 million. These funds are for health effects research, exposure research, improving monitoring technologies, modeling studies, and other key requirements.

Mr. CRAIG. I am pleased to learn that the committee has directed this level of funding to EPA for this important research. This comprehensive research program is very much needed. At present, there appears to be insufficient data available for the agency to decide what changes, if any, should be made to the current standard. There is no scientific consensus on whether it is necessary to change the current ambient air quality standards for particulate matter to protect human and environmental health. It has come to my attention that in a letter to EPA on June 13, 1996, EPA's own Clean Air Scientific Advisory Committee concluded that "our understanding of the health effects of [particulates] is far from complete," and these scientific uncertainties prevented the committee from agreeing on the agency's suggested new particulate standards. In addition, the former chairman of this advisory committee who is now a consultant to the advisory committee, Roger McClellan, wrote the current chairman in May to advise him that "the current staff document does not provide a scientifically adequate basis for making regulatory decisions for setting of National Ambient Air Quality Standards and related control of particulate matter as specified in the Clean Air Act." Finally, in a peer-reviewed article just published in the Journal of the National Institute of Environmental Health Sciences, scientists John Gamble and Jeffery Lewis conclude that the recent epidemiology studies that show statistically significant acute health effects of particulate air pollution do not meet the criteria for causality. They suggest that the weak statistical correlations of increased mortality are as likely due to confounding by weather, copollutants, or exposure misclassification as they are by ambient particulate matter.

As the chairman is aware, EPA is under a Federal court order to make a final decision on whether to revise the current clean air rule regarding particulate matter. Under the court order, EPA must make a proposed decision on or before November 29, 1996, and a final decision on or before June 28, 1997. Can the Chairman inform me whether the court order allows the agency to decide not to revise the particular standard until there is sufficient scientific basis for doing so?

Mr. BOND. It is my understanding that the court order only requires the agency to make a final decision on whether to revise the current ambient air standard for particulates, but the order does not require the agency to promulgate a new standard.

Mr. FAIRCLOTH. If I might interject, the fact that EPA has found several studies that indicate a correlation between loading of particulates in the air and premature mortality is important. This suggested link to human health problems needs to be promptly and thoroughly investigated. My objective is to provide protection of public health and the environment by designing control strategies that reduce harmful particulates and other pollutants from the air people breathe. However, I am concerned that EPA may be rushed to judgment by the Federal courts before real science has been developed to inform the agency about which pariculates, in which geographic locations, and in which concentrations are harming people and the environment. There are many questions that need to be answered about particulate matter, as EPA's Clean Air Scientific Advisory Committee, referred to as "CASAC," made clear in its June 13, 1996, letter to EPA—to which the Senator from Idaho just referred. For example, we do not know the mechanisms by which particulates might affect public health. Since 1988, particulate matter concentrations have declined by more than 20 percent, with substantial future declines in particulates expected to result from compliance with existing clean air standards. Moving forward with the targeted research program recommended by the CASAC is essential to understand the health problems associated with particulates. That better understanding of the health effects caused by particulates is needed before we can design an effective control strategy. I would note for my colleagues that this EPA advisory committee is meeting again in early September to design this particulate research program.

Mr. CRAIG. If the Senator would yield, I would ask the chairman that if EPA is only going to begin to implement the CASAC research program in October of this year, how can it be expected to issue a proposed rule on November 29, as required under the court order?

Mr. INHOFE. If I might add an additional comment to address the Senator from Idaho's question, I want to assure my colleagues that I share their concern that there is evidence of potential harm to Americans from exposure to fine particles. I want to know what kinds of particulates cause health problems. And I want to know where those particulates are and what are the best ways to reduce them.

I would note for the Senator from Idaho that the chairman of the subcommittee stated earlier the court order does not require the EPA to propose a change in the particulate standard. The EPA can satisfy its obligations by proposing not to change the

particulate standard until there is a better understanding about which particulates cause health effects, and where those particulates are prevalent in unhealthful levels. I would like to add that the Clinton Administration's Executive Order or Regulatory Review states the Administration's own regulatory philosophy as requiring agencies that are deciding whether and how to regulate must "assess all costs and benefits of available regulatory alternatives, including the alternative of not regulating." I believe the only prudent course would be for EPA to include consideration of retaining the current particulate standard in its proposed rule. In following this path, progress will continue to be made by the ongoing implementation of the existing Clean Air Act while the necessary research is being conducted to address the unanswered questions.

Mr. CRAIG. I agree with my distinguished colleague from Oklahoma. I do not want the people in our states breathing unhealthy air. I applaud and fully support the funding provided by the Senator from Missouri's committee for particulate research. I just don't think it makes much sense to promulgate new standards until you know what particles are unhealthy. It is my understanding that rural fugitive dust might be further regulated by the EPA when it issues its new particulate standards. Idaho, and I believe, my colleague's State of Oklahoma, are renowned for the volumes of fine, natural dirt that are carried by our breezes out West. Even without winds, just driving down a road, tilling a field, running cattle, sanding roads in the winter, or the gentlest of mining operations, will create dust. If dust is unhealthy, I'm sure the hard working people of my state will want to know about it, and would want to take measures to protect themselves. So I look forward to the CASAC's targeted study to be implemented before the rural fugitive dust standards are changed.

Mr. FAIRCLOTH. If the chairman would yield, I would ask whether any of the money in the FY 1997 funding for particulate research will go to implementing an ambient air quality and emissions monitoring program, and will EPA be placing the monitors, or simply telling the States to do it? We want to know not just whether this expense will bring any health benefits, but also whether it will create serious unfunded mandates problem. I would ask the chairman if he would join me in requesting that the EPA send the appropriate committees of Congress, within 90 days, a description of the monitoring program they will be implementing and to what extent EPA will fund the cost of that program, and whether they intend to ask for additional funding in FY 1998.

Mr. BOND. Yes, the agency has informed me that it will be using the 1997 appropriation for both increased health effects research and, in addition, more than $2 million will be for initiating an emissions monitoring program. In addition, it is my understanding EPA will be requesting additional funds for monitoring in its FY98 budget submission. It is my expectation that the agency will request the funds necessary to establish a thorough and scientifically defensible monitoring program. I concur that EPA should send us a description of their proposed comprehensive monitoring program and a budget proposal.

I thank my colleagues, and I agree with my colleagues that EPA should seriously consider a "no change" option as part of its proposed decision due by November 29. However, I would add that in view of the potential for harm to the public from particulates, a prudent option for the November deadline would be to reaffirm the current ambient air standard—and thus not disrupt ongoing programs—while moving expeditiously to implement a sound research agenda upon which to base future decisions.

Mr. President, I am also concerned that EPA must pay closer attention to the potential adverse impacts of changes to the particulates standard on small businesses. I am aware that EPA is taking the position that changes to the particulates standard do not impact small business in terms of implicating the Regulatory Flexibility Act, because the EPA's standards do not create burdens on small business, it is the State implementation plan. As a primary author of the 1996 amendments to the Regulatory Flexibility Act, I strongly disagree with the agency's interpretation, and believe that EPA agency should fully comply with the requirements imposed on Federal agencies by that act.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting a nomination which was referred to the Committee on the Judiciary.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT CONCERNING THE EMIGRATION LAWS AND POLICIES OF MONGOLIA—MESSAGE FROM THE PRESIDENT—PM 167

The Presiding Officer laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Finance.

To the Congress of the United States:

I hereby transmit a report concerning emigration laws and policies of Mongolia as required by subsections 402(b) and 409(b) of title IV of the Trade Act of 1974, as amended ("the Act"). I have determined that Mongolia is in full compliance with the criteria in subsections 402(a) and 409(a) of the Act. As required by title IV, I will provide the Congress with periodic reports regarding Mongolia's compliance with these emigration standards.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *September 4, 1996.*

MESSAGES FROM THE HOUSE

At 11:52 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 1467. An act to authorize the construction of the Fort Peck Rural County Water Supply System, to authorize assistance to the Fort Peck Rural County Water District, Inc., a nonprofit corporation, for the planning, design, and construction of the water supply system, and for other purposes.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3553. An act to amend the Federal Trade Commission Act to authorize appropriations for the Federal Trade Commission.

ENROLLED BILL SIGNED

The message further announced that the Speaker has signed the following enrolled bill:

H.R. 3754. An act making appropriations for the Legislative Branch for the fiscal year ending September 30, 1997, and for other purposes.

The enrolled bill was signed subsequently by the President pro tempore [Mr. THURMOND].

At 1:57 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 120. Concurrent resolution supporting the independence and sovereignty of Ukraine and the progress of its political and economic reforms.

The message also announced that pursuant to section 389(d)(2) of Public Law 104–127, the minority leader appoints Mr. Richard Roos-Collins of California as a member from private life on the part of the House to the Water Rights Task Force.

The message further announced that the House disagrees to the amendments of the Senate to the bill (H.R. 3675)

making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1997, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. WOLF, Mr. DELAY, Mr. REGULA, Mr. ROGERS, Mr. LIGHTFOOT, Mr. PACKARD, Mr. CALLAHAN, Mr. DICKEY, Mr. LIVINGSTON, Mr. SABO, Mr. DURBIN, Mr. COLEMAN, Mr. FOGLIETTA, and Mr. OBEY as the managers of the conference on the part of the House.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 3816) making appropriations for energy and water development for the fiscal year ending September 30, 1997, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. MYERS, Mr. ROGERS, Mr. KNOLLENBERG, Mr. RIGGS, Mr. FRELINGHUYSEN, Mr. BUNN, Mr. PARKER, Mr. LIVINGSTON, Mr. BEVILL, Mr. FAZIO, Mr. CHAPMAN, Mr. VISCLOSKY, and Mr. OBEY, as the managers of the conference on the part of the House.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 401. An act entitled the "Kenai Natives Association Equity Act".

H.R. 447. An act to establish a toll free number in the Department of Commerce to assist consumers in determining if products are American-made.

H.R. 1179. An act to authorize appropriations for the preservation and restoration of historic buildings at historically black colleges and universities.

H.R. 1514. An act to authorize and facilitate a program to enhance safety, training, research and development, and safety education in the propane gas industry for the benefit of propane consumers and the public, and for other purposes.

H.R. 2122. An act to designate the Lake Tahoe Basin National Forest in the States of California and Nevada to be administered by the Secretary of Agriculture, and for other purposes.

H.R. 2135. An act to provide for the relief of certain persons in Clark County, Nevada, who purchased lands in good faith reliance on existing private land surveys.

H.R. 2292. An act to preserve and protect the Hanford Reach of the Columbia River, and for other purposes.

H.R. 2438. An act to provide for the conveyance of lands to certain individuals in Gunnison County, Colorado, and for other purposes.

H.R. 2518. An act to authorize the Secretary of Agriculture to exchange certain lands in the Wenatachee National Forest, Washington, for certain lands owned by Public Utility District No. 1 of Chelan County, Washington, and for other purposes.

H.R. 2709. An act to provide for the conveyance of certain land to the Del Norte County Unified School District of Del Norte County, California.

H.R. 2711. An act to provide for the substitution of timber for the canceled Elkhorn Ridge Timber Sale.

H.R. 3147. An act to provide for the exchange of certain Federal lands in the State of California managed by the Bureau of Land Management for certain non-Federal lands, and for other purposes.

H.R. 3378. An act to amend the Indian Health Care Improvement Act to extend the demonstration program for direct billing of Medicare, Medicaid, and other third party payors.

H.R. 3487. An act to reauthorize the National Marine Sanctuaries Act, and for other purposes.

H.R. 3547. An act to provide for the conveyance of a parcel of real property in the Apache National Forest in the State of Arizona to the Alpine Elementary School District 7 to be used for the construction of school facilities and related playing fields.

H.R. 3579. An act to direct the Secretary of the Interior to convey certain property containing a fish and wildlife facility to the State of Wyoming, and for other purposes.

H.R. 3660. An act to make amendments to the Reclamation Wastewater and Groundwater Study and Facilities Act, and for other purposes.

H.R. 3793. An act to provide for a 10-year circulating commemorative coin program to commemorate each of the 50 States, and for other purposes.

H.R. 3864. An act to amend laws authorizing auditing, reporting, other functions by the General Accounting Office.

H.R. 3871. An act to waive temporarily the Medicaid enrollment composition rule for certain health maintenance organizations.

H.R. 3916. An act to make available certain Voice of America and Radio Marti multilingual computer readable text and voice recordings.

H.R. 4018. An act to make technical corrections in the Federal Oil and Gas Royalty Management Act of 1982.

ENROLLED BILLS SIGNED

At 4:09 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bills.

H.R. 740. An act to confer jurisdiction on the United States Court of Federal Claims with respect to land claims of Pueblo of Isleta Indian Tribe.

H.R. 3269. An act to amend the Impact Aid program to provide for a hold-harmless with respect to amounts for payments relating to the Federal acquisition of real property, and for other purposes.

H.R. 3517. An act making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 1997, and for other purposes.

H.R. 3845. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1997, and for other purposes.

The enrolled bills were signed subsequently by the President pro tempore [Mr. THURMOND].

MEASURES REFERRED

The following concurrent resolution was read and referred as indicated:

H. Con. Res. 120. Concurrent resolution supporting the independence and sovereignty of Ukraine and the progress of its political and economic reforms; to the Committee on Foreign relations.

The following bills were read the first and second times by unanimous consent and referred as indicated:

H.R. 401. An act entitled the "Kenai Natives Association Equity Act"; to the Committee on Energy and Natural Resources.

H.R. 447. An act to establish a toll free number in the Department of Commerce to assist consumers in determining if products are American-made; to the Committee on Commerce, Science, and Transportation.

H.R. 2122. An act to designate the Lake Tahoe Basin National Forest in the States of California and Nevada to be administered by the Secretary of Agriculture, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 2135. An act to provide for the relief of certain persons in Clark County, Nevada, who purchased lands in good faith reliance on existing private land surveys; to the Committee on Energy and Natural Resources.

H.R. 2292. An act to preserve and protect the Hanford each of the Columbia River, and for other purposes; to the Committee on Energy and Natural.

H.R. 2438. An act to provide for the conveyance of lands to certain individuals in gunnison county, Colorado, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 2518. An act to authorize the Secretary of Agriculture to exchange certain lands in the Wenatachee National Forest, Washington, for certain lands owned by Public Utility District No. 1 of Chelan County, Washington, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 2709. An act to provide for the conveyance of certain land to the Del Norte County Unified School District of Del Norte County, California; to the Committee on Energy and Natural Resources.

H.R. 2711. An act to provide for the substitution of timber for the canceled Elkhorn Ridge Timber Sale; to the Committee on Energy and Natural Resources.

H.R. 3147. An act to provide for the exchange of certain Federal lands in the State of California managed by the Bureau of Land Management for certain non-Federal lands, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 3487. An act to reauthorize the National Marine Sanctuaries Act, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 3547. An act to provide for the conveyance of a parcel of real property in the Apache National Forest in the state of Arizona to the Alpine Elementary School District 7 to be used for the construction of school facilities and related playing fields; to the Committee on Energy and Natural Resources.

H.R. 3793. An act to provide for a 10-year circulating commemorative coin program to commemorate each of the 50 States, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 3864. An act to amend laws authorizing auditing, reporting, other functions by the General Accounting Office; to the Committee on Governmental Affairs.

H.R. 3871. An act to waive temporarily the Medicaid enrollment composition rule for certain health maintenance organizations; to the Committee on Finance.

H.R. 3916. An act to make available certain Voice of America and Radio Marti multilingual computer readable text and voice recordings; to the Committee on Foreign Relations.

MEASURES PLACED ON THE CALENDAR

The following measure was read the second time and placed on the calendar:

S. 2053. A bill to strengthen narcotics reporting requirements and to require the imposition of certain sanctions on countries that fail to take effective action against the production of and trafficking in illicit narcotics and psychotropic drugs and other controlled substances, and for other purposes.

The following measures were read the first and second times by unanimous consent and placed on the calendar:

H.R. 1514. An act to authorize and facilitate a program to enhance safety, training, research and development, and safety education in the propane gas industry for the benefit of propane consumers and the public, and for other purposes.

H.R. 3378. An act to amend the Indian Health Care Improvement Act to extend the demonstration program for direct billing of Medicare, Medicaid, and other third party payors.

H.R. 3553. An act to amend the Federal Trade Commission Act to authorize appropriations for the Federal Trade Commission.

H.R. 3579. An act to direct the Secretary of the Interior to convey certain property containing a fish and wildlife facility to the State of Wyoming, and for other purposes.

The following measure was ordered placed on the calendar:

H.R. 3660. An act to make amendments to the Reclamation Wastewater and Groundwater Study and Facilities Act, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–3856. A communication from the Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, a rule concerning danger zone regulations, received on August 27, 1996; to the Committee on Environment and Public Works.

EC–3857. A communication from the Director of the Office of Congressional Affairs, U.S. Nuclear Regulatory Commission, transmitting, pursuant to law, the rule entitled "Deletion of Outdated References and Minor Change," (RIN3150–AF43) received on August 27, 1996; to the Committee on Environment and Public Works.

EC–3858. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting, pursuant to law, a rule entitled "Migratory Bird Hunting," (RIN1018–AD69) received on August 27, 1996; to the Committee on Environment and Public Works.

EC–3859. A communication from the Assistant Secretary for Fish and Wildlife Parks, Department of the Interior, transmitting, pursuant to law, the report of a rule relative to the Migratory Bird Harvest Information Program, (RIN1018–AD08) received on August 27, 1996; to the Committee on Environment and Public Works.

EC–3860. A communication from the Assistant Secretary for Fish and Wildlife Parks, Department of the Interior, transmitting, pursuant to law, the report of a rule relative to certain migratory game birds, (RIN1018–AD69) received on August 27, 1996; to the Committee on Environment and Public Works.

EC–3861. A communication from the Assistant Secretary for Fish and Wildlife Parks, Department of the Interior, transmitting, pursuant to law, the report of a rule relative to refuge-specific hunting and sport fishing regulations, (RIN1018–AD76) received on August 29, 1996; to the Committee on Environment and Public Works.

EC–3862. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of two rules including one entitled "Motor Vehicle Content Labeling," (RIN2127–AG46 and 2125–AD69) received on September 3, 1996; to the Committee on Environment and Public Works.

EC–3863. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of four rules including one entitled "Approval and Promulgation of Implementation Plans; State of Kansas," (FRL5556–8, 5601–6, 5555–2, 5603–1) received on September 3, 1996; to the Committee on Environment and Public Works.

EC–3864. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule relative to Federal test procedure for emissions from motor vehicles, (FRL5558–3) received on September 3, 1996; to the Committee on Environment and Public Works.

EC–3865. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule relative to air pollution from new motor vehicles, (FRL5602–3) received on September 3, 1996; to the Committee on Environment and Public Works.

EC–3866. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule relative to air quality implementation plans for Tennessee, (FRL5554–6) received on September 3, 1996; to the Committee on Environment and Public Works.

EC–3867. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of two rules including one entitled "Approval and Promulgation of Implementation Plans; Designation of Areas for Air Quality Planning Purposes; Wyoming; Correction," (FRL5560–4 and 5389–9) received on September 3, 1996; to the Committee on Environment and Public Works.

EC–3868. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report entitled "Assessment of International Air Pollution Prevention and Control Technology"; to the Committee on Environment and Public Works.

EC–3869. A communication from the Assistant Secretary for Fish and Wildlife Parks, Department of the Interior, transmitting, pursuant to law, the report of a rule relative to use of environman and human figure and design symbol, (RIN1024–AC50) received on August 21, 1996; to the Committee on Environment and Public Works.

EC–3870. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of two rules including one entitled "Approval and Promulgation of Implementation Plans; Commonwealth of Virginia—1990 Base Year Emmission Inventory," (FRL5603–5) received on September 3, 1996; to the Committee on Environment and Public Works.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. THURMOND, from the Committee on Armed Services:

The following-named officer for appointment to the grade of lieutenant general in the U.S. Air Force while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. David J. McCloud, 557–62–6270.

The following-named officer for reappointment to the grade of vice admiral in the U.S. Navy while assigned to a position of importance and responsibility under title 10 United States Code, section 601:

To be vice admiral

Vice Adm. Dennis C. Blair, 248–84–1618.

The following-named officer for appointment to the grade of admiral in the U.S. Navy while assigned to a position of importance and responsibility under title 10, United States Code, sections 601 and 5035:

VICE CHIEF OF NAVAL OPERATIONS

To be admiral

Vice Adm. Harold W. Gehman, Jr., 214–42–3817.

(The above nominations were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. ABRAHAM (for himself and Mr. LEVIN):

S. 2055. A bill to waive temporarily the Medicare enrollment composition rules for The Wellness Plan; to the Committee on Finance.

By Mr. KENNEDY:

S. 2056. A bill to prohibit employment discrimination on the basis of sexual orientation; read twice and ordered placed on the calendar.

By Mr. WARNER (for himself and Mr. THURMOND):

S. 2057. A bill to amend title 38, United States Code, to make permanent the authority of the Secretary of Veterans Affairs guarantee loans with adjustable rate mortgages; to the Committee on Veterans Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DASCHLE (for Mr. LOTT (for himself, Mr. DASCHLE, Mr. THURMOND, and Mr. WARNER)):

S. Res. 288. A resolution regarding the United States response to Iraqi aggression; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ABRAHAM (for himself and Mr. LEVIN):

S. 2055. A bill to waive temporarily the Medicare enrollment composition rules for the Wellness Plan; to the Committee on Finance.

THE WELLNESS PLAN WAIVER ACT OF 1996

Mr. ABRAHAM. Mr President, today I rise along with my distinguished colleague from Michigan, Senator LEVIN, to introduce legislation which will expand the number of health care choices available to residents of Michigan. This bill will provide Medicare beneficiaries in Michigan the opportunity to obtain health care from The Wellness Plan, a longstanding, federally qualified health maintenance organization. The Wellness Plan has been recognized by national leaders, including two former Secretaries of the Department of Health and Human Services, as a model managed care plan. In addition, the Wellness Plan has made significant contributions to improving the health and well-being of its enrollees, many of whom are poor women and children, by decreasing infant mortality, effectively reducing hypertension, and increasing mammography rates.

The Wellness Plan has been serving the Medicaid population for over two decades. It currently has 150,000 enrollees, 141,000 of whom are Medicaid, 12,000 commercial and 2,000 Medicare. Since 1993, the Wellness Plan has had a health care prepayment plan contract with Medicare. However, technical changes enacted by Congress effective January 1, 1996, had the unintended effect of preventing the Wellness Plan from enrolling additional Medicare beneficiaries under the HCPP contract. The Wellness Plan is positioned to become a full Medicare risk contractor but currently is precluded from doing so due to the 50/50 Medicare/Medicaid enrollment composition rule. It must be emphasized that the Health Care Financing Administration supports the Wellness Plan receiving a plan-specific 50/50 waiver at this time.

Allowing Medicare beneficiaries to participate in this program represents a small, but important step toward fulfilling Congress' commitment to improve the quality of this country's health care system. Given that the Wellness Plan has an established record with respect to both the Medicaid and Medicare programs, and that the Health Care Financing Administration supports the Wellness Plan receiving a plan-specific 50/50 waiver, I urge Congress to move this bill before the end of this session so that Michigan Medicare beneficiaries will once again have the opportunity to participate in this plan beginning in 1997.

By Mr. WARNER (for himself and Mr. THURMOND):

S. 2057. A bill to amend title 38, United States Code, to make permanent the authority of the Secretary of Veterans Affairs guarantee loans with adjustable rate mortgages; to the Committee on Veterans Affairs.

THE VA ADJUSTABLE RATE MORTGAGE PROGRAM REAUTHORIZATION ACT OF 1996

Mr. WARNER. Mr. President, I rise today to introduce on behalf of myself and Senator THURMOND a bill to permanently reauthorize the VA Adjustable Rate Mortgage Program.

This program was created in the 102d Congress to guarantee adjustable rate mortgages for a 3-year period ending September 30, 1995. The program allowed a maximum of 1-percent increase annually with a 5-percent maximum increase on the interest rate over the life of the loan. These annual and lifetime caps are identical to those contained in the FHA Adjustable Rate Mortgage Program, which is a permanent program.

Adjustable rate mortgages have proven to be a valuable and essential home mortgage financing tool for American families, particularly in times of rising interest rates. Adjustable rate mortgages allow borrowers to obtain home loans with interest rates below those required for normal fixed interest rate loans.

During the 3-year period that the VA Adjustable Rate Mortgage Program was in effect, large numbers of veterans took advantage of this financing tool, with 131,250 VA adjustable rate mortgages being originated nationwide, totaling $14.9 billion. In Virginia alone, 10,599 loans granted totaling over $1.2 billion. Over 58 percent of these loans nationally were made to first-time home buyers.

The VA Home Loan Guaranty Program was created by the Congress in 1944 to ensure that veterans returning home from World War II would have an opportunity to achieve the American dream of owning a home. This benefit was established for our veterans because their service to our country denied them the opportunity to save the necessary funds for a down payment for a home or to establish a credit rating. The program has since been extended to benefit all of the men and women who have served their country honorably in the Armed Forces. Since the program's inception, 14.8 million loans totaling $515 billion have been made to veterans.

This bill simply guarantees that the home loans that are available to American veterans are affordable. I urge my colleagues to join Senator THURMOND and myself in supporting a program that has proven to be successful and beneficial to the most deserving of Americans, our veterans, by permanently reauthorizing the VA Adjustable Rate Mortgage Program.

Mr. THURMOND. Mr. President, I rise today to introduce legislation, with Senator WARNER, that will permanently extend the authority of the Secretary of Veterans Affairs [VA] to guarantee loans with adjustable rate mortgages [ARMS].

The Veterans Home Loan Program Amendments of 1992 made significant changes to the VA Home Loan Program. Included in that bill were provisions establishing a demonstration project authorizing VA to guarantee ARMS during fiscal years 1993–95.

The Loan Guaranty Program is a benefit of great value to veterans and to the Nation. This program provides housing credit assistance to satisfy the mortgage credit needs of veterans and members of the Armed Forces. It provides private capital on more liberal terms than are generally available to nonveterans, without the assumption of undue risks by the Federal Government. Veterans are assisted primarily through the use of the Government's guaranty on loans instead of the substantial down payment and other investment safeguards applicable to conventional mortgage transactions. Since the program's inception in 1944, the VA has guaranteed nearly 15 million loans totaling more than $500 billion.

The ARM program offers veterans another choice in the mortgage market, particularly when interest rates are high. It is particularly useful to first-time home buyers who can obtain loans with interest rates generally lower than fixed rate loans. The VA ARM allows a maximum of 1 percent interest annually with a 5-percent maximum interest rate increase over the life of the loan. These annual and lifetime caps are identical to those contained in the Federal Housing Administration [FHA] ARM program, which is permanently authorized.

During the pilot program, the popularity of ARMS was well established. According to VA statistics, during fiscal year 1995, approximately 20 percent of all loans guaranteed were ARMS. This was double the ration of ARMS to all loans guaranteed in fiscal year 1994. During the test period of 1993–95, ARMS totaling $14.9 billion were guaranteed. In South Carolina, nearly 2,000 ARMS were originated, with a value of more than $181 million.

Mr. President, this bill will permanently authorize a worthy program. ARMS are a valuable financing tool for American families. They are used extensively nationwide by conventional and FHA home buyers. This bill will permit qualified veterans to take advantage of ARMS, if they so choose. I urge my colleagues to join Senator

WARNER and me in the permanent reauthorization of the VA Adjustable Rate Mortgage Program.

ADDITIONAL COSPONSORS

S. 628

At the request of Mr. KYL, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 628, a bill to repeal the Federal estate and gift taxes and the tax on generation-skipping transfers.

S. 1189

At the request of Mr. DEWINE, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 1189, a bill to provide procedures for claims for compassionate payments with regard to individuals with blood-clotting disorders, such as hemophilia, who contracted human immunodeficiency virus due to contaminated blood products.

S. 1603

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 1603, a bill to amend the Small Business Act concerning the level of participation by the Small Business Administration in loans guaranteed under the Export Working Capital Program.

S. 1610

At the request of Mr. BOND, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 1610, a bill to amend the Internal Revenue Code of 1986 to clarify the standards used for determining whether individuals are not employees.

S. 1645

At the request of Mr. STEVENS, his name was added as a cosponsor of S. 1645, a bill to regulate United States scientific and tourist activities in Antarctica, to conserve Antarctic resources, and for other purposes.

S. 1964

At the request of Mr. BINGAMAN, the names of the Senator from Idaho [Mr. CRAIG], and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of S. 1964, a bill to amend title XVIII of the Social Security Act to provide for coverage under part B of the Medicare program of medical nutrition therapy services of registered dietitians and nutrition professionals.

S. 1970

At the request of Mr. MCCAIN, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 1970, a bill to amend the National Museum of the American Indian Act to make improvements in the Act, and for other purposes.

S. 1987

At the request of Mr. FAIRCLOTH, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 1987, a bill to amend titles II and XVIII of the Social Security Act to prohibit the use of social security and Medicare trust funds for certain expenditures relating to union representatives at the Social Security Administration and the Department of Health and Human Services.

S. 2005

At the request of Mr. WYDEN, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 2005, A bill to prohibit the restriction of certain types of medical communications between a health care provider and a patient.

S. 2031

At the request of Mr. DOMENICI, the names of the Senator from Oregon [Mr. HATFIELD] and the Senator from North Dakota [Mr. DORGAN] were added as cosponsors of S. 2031, a bill to provide health plan protections for individuals with a mental illness.

SENATE JOINT RESOLUTION 52

At the request of Mr. ABRAHAM, his name was withdrawn as a cosponsor of Senate Joint Resolution 52, a joint resolution proposing an amendment to the Constitution of the United States to protect the rights of victims of crimes.

SENATE RESOLUTION 288—REGARDING THE UNITED STATES RESPONSE TO IRAQI AGGRESSION

Mr. DASCHLE (for Mr. LOTT, for himself, Mr. DASCHLE, Mr. THURMOND, and Mr. WARNER) submitted the following resolution; which was considered and agreed to.

S. RES. 288

Whereas the United States and its allies have vital interests in ensuring regional stability in the Persian Gulf;

Whereas on August 31, 1996, Saddam Hussein, despite warnings from the United States, began an unprovoked, unjustified, and brutal attack on the civilian population in and around Irbil in northern Iraq, aligning himself with one Kurdish faction to assault another, thereby causing the deaths of hundreds of innocent civilians; and

Whereas the United States responded to Saddam Hussein's aggression on September 3, 1996 by destroying some of the Iraqi air defense installations and announcing the expansion of the southern no-fly zone over Iraq: Now, therefore, be it

Resolved, That the Senate commends the military actions taken by and the performance of the United States Armed Forces, under the direction of the Commander-in-Chief, for carrying out this military mission in a highly professional, efficient and effective manner.

AMENDMENTS SUBMITTED

THE DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1997

HOLLINGS AMENDMENT NO. 5187

Mr. BOND (for Mr. HOLLINGS) proposed an amendment to the bill (H.R. 3666) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1997, and for other purposes; as follows:

At the appropriate place in title II of the bill, insert the following new section:

SEC. . COMMUNITY DEVELOPMENT BLOCK GRANTS.

Section 102(a)(6)(D) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(6)(D)) is amended—

(1) in clause (iv), by striking "or" at the end;

(2) in clause (v), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following new clause:

"(vi) has entered into a local cooperation agreement with a metropolitan city that received assistance under section 106 because of such classification, and has elected under paragraph (4) to have its population included with the population of the county for the purposes of qualifying as an urban county, except that to qualify as an urban county under this clause, the county must—

"(I) have a combined population of not less than 210,000, excluding any metropolitan city located in the county that is not relinquishing its metropolitan city classification, according to the 1990 decennial census of the Bureau of the Census of the Department of Commerce;

"(II) including any metropolitan cities located in the country, have had a decrease in population of 10,061 from 1992 to 1994, according to the estimates of the Bureau of the Census of the Department of Commerce; and

"(III) have had a Federal naval installation that was more than 100 years old closed by action of the Base Closure and Realignment Commission appointed for 1993 under the Base Closure and Realignment Act of 1990, directly resulting in a loss of employment by more than 7,000 Federal Government civilian employees and more than 15,000 active duty military personnel, which naval installation was located within 1 mile of an enterprise community designated by the Secretary pursuant to section 1391 of the Internal Revenue Code of 1986, which enterprise community has a population of not less than 20,000, according to the 1990 decennial census of the Bureau of the Census of the Department of Commerce.".

BENNETT AMENDMENT NO. 5188

Mr. BOND (for Mr. BENNETT) proposed an amendment to the bill, H.R. 3666, supra; as follows:

On page 27, line 19, strike "$969,000,000" and insert "$969,464,442".

On page 29, line 5, strike the period, and insert a colon and the following: "*Provided further*, That of the total amount provided under this head, the Secretary shall provide $755,573 to the Utah Housing Finance Agency, in lieu of amounts lost to such agency in bond refinancings during 1994, for its use in accordance with the immediately preceding proviso."

FAIRCLOTH AMENDMENT NO. 5189

Mr. BOND (for Mr. FAIRCLOTH) proposed an amendment to the bill, H.R. 3666, supra; as follows:

At the appropriate place in title II of the bill, insert the following new section:

SEC. 2 . FAIR HOUSING AND FREE SPEECH.

None of the amounts made available under this Act may be used during fiscal year 1997 to investigate or prosecute under the Fair Housing Act any otherwise lawful activity engaged in by one or more persons, including the filing or maintaining of a nonfrivolous legal action, that is engaged in solely for the purpose of achieving or preventing action by a government official or entity, or a court of competent jurisdiction.

DASCHLE (AND OTHERS) AMENDMENT NO. 5190

Mr. DASCHLE (for himself, Mr. KERRY, Mr. ROCKEFELLER, Mr. WELLSTONE, Ms. MIKULSKI, Mr. BYRD, Mr. DODD, Mr. CONRAD, Mr. INOUYE, Mr. PELL, Mr. SIMON, Mr. FEINGOLD, Mr. BREAUX, Mrs. BOXER, Mr. DORGAN, Mrs. FEINSTEIN, Mr. GLENN, Mr. HARKIN, Mr. ROBB, Mr. KENNEDY, Mr. FORD, Mr. REID, Ms. MOSELEY-BRAUN, Mr. LEAHY, Mr. HOLLINGS, and Mr. KOHL) proposed an amendment to the bill, H.R. 3666, supra; as follows:

On page 97, between lines 15 and 16, insert the following:

SEC. 421. (a) The purpose of this section is to provide for the special needs of certain children of Vietnam veterans who were born with the birth defect spina bifida, possibly as the result of the exposure of one or both parents to herbicides during active service in the Republic of Vietnam during the Vietnam era, through the provision of health care and monetary benefits.

(b)(1) Part II of title 38, United States Code, is amended by inserting after chapter 17 the following new chapter:

"CHAPTER 18—BENEFITS FOR CHILDREN OF VIETNAM VETERANS WHO ARE BORN WITH SPINA BIFIDA

"§ 1801. Definitions

"For the purposes of this chapter—

"(1) The term 'child', with respect to a Vietnam veteran, means a natural child of the Vietnam veteran, regardless of age or marital status, who was conceived after the date on which the veteran first entered the Republic of Vietnam during the Vietnam era.

"(2) The term 'Vietnam veteran' means a veteran who performed active military, naval, or air service in the Republic of Vietnam during the Vietnam era.

"§ 1802. Spina bifida conditions covered

"This chapter applies with respect to all forms and manifestations of spina bifida except spina bifida occulta.

"§ 1803. Health care

"(a) In accordance with regulations which the Secretary shall prescribe, the Secretary shall provide a child of a Vietnam veteran who is suffering from spina bifida with such health care as the Secretary determines is needed by the child for the spina bifida or any disability that is associated with such condition.

"(b) The Secretary may provide health care under this section directly or by contract or other arrangement with any health care provider.

"(c) For the purposes of this section—

"(1) The term 'health care'—

"(A) means home care, hospital care, nursing home care, outpatient care, preventive care, habilitative and rehabilitative care, case management, and respite care; and

"(B) includes—

"(i) the training of appropriate members of a child's family or household in the care of the child; and

"(ii) the provision of such pharmaceuticals, supplies, equipment, devices, appliances, assistive technology, direct transportation costs to and from approved sources of health care, and other materials as the Secretary determines necessary.

"(2) The term 'health care provider' includes specialized spina bifida clinics, health care plans, insurers, organizations, institutions, and any other entity or individual who furnishes health care that the Secretary determines authorized under this section.

"(3) The term 'home care' means outpatient care, habilitative and rehabilitative care, preventive health services, and health-related services furnished to an individual in the individual's home or other place of residence.

"(4) The term 'hospital care' means care and treatment for a disability furnished to an individual who has been admitted to a hospital as a patient.

"(5) The term 'nursing home care' means care and treatment for a disability furnished to an individual who has been admitted to a nursing home as a resident.

"(6) The term 'outpatient care' means care and treatment of a disability, and preventive health services, furnished to an individual other than hospital care or nursing home care.

"(7) The term 'preventive care' means care and treatment furnished to prevent disability or illness, including periodic examinations, immunizations, patient health education, and such other services as the Secretary determines necessary to provide effective and economical preventive health care.

"(8) The term 'habilitative and rehabilitative care' means such professional, counseling, and guidance services and treatment programs (other than vocational training under section 1804 of this title) as are necessary to develop, maintain, or restore, to the maximum extent practicable, the functioning of a disabled person.

"(9) The term 'respite care' means care furnished on an intermittent basis for a limited period to an individual who resides primarily in a private residence when such care will help the individual to continue residing in such private residence.

"§ 1804. Vocational training and rehabilitation

"(a) Pursuant to such regulations as the Secretary may prescribe, the Secretary may provide vocational training under this section to a child of a Vietnam veteran who is suffering from spina bifida if the Secretary determines that the achievement of a vocational goal by such child is reasonably feasible.

"(b) Any program of vocational training for a child under this section shall be designed in consultation with the child in order to meet the child's individual needs and shall be set forth in an individualized written plan of vocational rehabilitation.

"(c)(1) A vocational training program for a child under this section—

"(A) shall consist of such vocationally oriented services and assistance, including such placement and post-placement services and personal and work adjustment training, as the Secretary determines are necessary to enable the child to prepare for and participate in vocational training or employment; and

"(B) may include a program of education at an institution of higher education if the Secretary determines that the program of education is predominantly vocational in content.

"(2) A vocational training program under this subsection may not include the provision of any loan or subsistence allowance or any automobile adaptive equipment.

"(d)(1) Except as provided in paragraph (2) and subject to subsection (e)(2), a vocational training program under this section may not exceed 24 months.

"(2) The Secretary may grant an extension of a vocational training program for a child under this section for up to 24 additional months if the Secretary determines that the extension is necessary in order for the child to achieve a vocational goal identified (before the end of the first 24 months of such program) in the written plan of vocational rehabilitation formulated for the child pursuant to subsection (b).

"(e)(1) A child who is pursuing a program of vocational training under this section and is also eligible for assistance under a program under chapter 35 of this title may not receive assistance under both such programs concurrently. The child shall elect (in such form and manner as the Secretary may prescribe) the program under which the child is to receive assistance.

"(2) The aggregate period for which a child may receive assistance under this section and chapter 35 of this title may not exceed 48 months (or the part-time equivalent thereof).

"§ 1805. Monetary allowance

"(a) The Secretary shall pay a monthly allowance under this chapter to any child of a Vietnam veteran for any disability resulting from spina bifida suffered by such child.

"(b)(1) The amount of the allowance paid to a child under this section shall be based on the degree of disability suffered by the child, as determined in accordance with such schedule for rating disabilities resulting from spina bifida as the Secretary may prescribe.

"(2) The Secretary shall, in prescribing the rating schedule for the purposes of this section, establish three levels of disability upon which the amount of the allowance provided by this section shall be based.

"(3) The amounts of the allowance shall be $200 per month for the lowest level of disability prescribed, $700 per month for the intermediate level of disability prescribed, and $1,200 per month for the highest level of disability prescribed. Such amounts are subject to adjustment under section 5312 of this title.

"(c) Notwithstanding any other provision of law, receipt by a child of an allowance under this section shall not impair, infringe, or otherwise affect the right of the child to receive any other benefit to which the child may otherwise be entitled under any law administered by the Secretary, nor shall receipt of such an allowance impair, infringe, or otherwise affect the right of any individual to receive any benefit to which the individual is entitled under any law administered by the Secretary that is based on the child's relationship to the individual.

"(d) Notwithstanding any other provision of law, the allowance paid to a child under this section shall not be considered income

or resources in determining eligibility for or the amount of benefits under any Federal or federally assisted program.

"§ 1806. Effective date of awards

"The effective date for an award of benefits under this chapter shall be fixed in accordance with the facts found, but shall not be earlier than the date of receipt of application for the benefits.".

(2) The tables of chapters before part I and at the beginning of part II of such title are each amended by inserting after the item referring to chapter 17 the following new item:

"18. Benefits for Children of Vietnam Veterans Who Are Born With Spina Bifida ..... 1801".

(c) Section 5312 of title 38, United States Code, is amended—

(1) in subsection (a)—

(A) by striking out "and the rate of increased pension" and inserting in lieu thereof ", the rate of increased pension"; and

(B) by inserting after "on account of children," the following: "and each rate of monthly allowance paid under section 1805 of this title,"; and

(2) in subsection (c)(1), by striking out "and 1542" and inserting in lieu thereof "1542, and 1805".

(d) This section and the amendments made by this section shall take effect on January 1, 1997.

SEC. 422. (a) Section 1151 of title 38, United States Code, is amended—

(1) by striking out the first sentence and inserting in lieu thereof the following:

"(a) Compensation under this chapter and dependency and indemnity compensation under chapter 13 of this title shall be awarded for a qualifying additional disability or a qualifying death of a veteran in the same manner as if such additional disability or death were service-connected. For purposes of this section, a disability or death is a qualifying additional disability or qualifying death if the disability or death was not the result of the veteran's willful misconduct and—

"(1) the disability or death was caused by hospital care, medical or surgical treatment, or examination furnished the veteran under any law administered by the Secretary, either by a Department employee or in a Department facility as defined in section 1701(3)(A) of this title, and the proximate cause of the disability or death was—

"(A) carelessness, negligence, lack of proper skill, error in judgment, or similar instance of fault on the part of the Department in furnishing the hospital care, medical or surgical treatment, or examination; or

"(B) an event not reasonably foreseeable; or

"(2) the disability or death was proximately caused by the provision of training and rehabilitation services by the Secretary (including by a service-provider used by the Secretary for such purpose under section 3115 of this title) as part of an approved rehabilitation program under chapter 31 of this title."; and

(2) in the second sentence—

(A) by redesignating that sentence as subsection (b);

(B) by striking out ", aggravation," both places it appears; and

(C) by striking out "sentence" and substituting in lieu thereof "subsection".

(b)(1) The amendments made by subsection (a) shall take effect on October 1, 1996.

(2) Section 1151 of title 38, United States Code (as amended by subsection (a)), shall govern all administrative and judicial determinations of eligibility for benefits under such section that are made with respect to claims filed on or after the effective date set forth in paragraph (1), including those based on original applications and applications seeking to reopen, revise, reconsider, or otherwise readjudicate on any basis claims for benefits under such section 1151 or any provision of law that is a predecessor of such section.

HELMS (AND OTHERS) AMENDMENT NO. 5191

Mr. HELMS (for himself, Mr. BOND, Mr. FAIRCLOTH, Mr. MCCAIN, Mr. THURMOND, and Mr. COVERDELL) proposed an amendment to the bill, H.R. 3666, supra; as follows:

On page 39, after line 10, insert the following new paragraph:

"Of the amount made available under this heading, notwithstanding any other provision of law, $20,000,000 shall be available for grants to entities managing or operating public housing developments, Federally-assisted multifamily-housing developments, or other multifamily-housing developments for low-income families supported by non-Federal governmental entities or similar housing developments supported by private sources, to reimburse local law enforcement entities for additional police presence in and around such housing developments; to provide or augment such security services by other entities or employees of the recipient agency; to assist in the investigation and/or prosecution of drug related criminal activity in and around such developments; and to provide assistance for the development of capital improvements at such developments directly relating to the security of such developments: *Provided*, That such grants shall be made on a competitive basis as specified in section 102 of the HUD Reform Act."

BRADLEY (AND OTHERS) AMENDMENT NO. 5192

Mr. BRADLEY (for himself, Mrs. KASSEBAUM, Mr. FRIST, Mr. ROCKEFELLER, Mrs. BOXER, Ms. MIKULSKI, Mr. SARBANES, Mrs. MURRAY, Mr. DEWINE, Mr. REID, Mr. PELL, Mr. KENNEDY, Mr. SIMON, Mr. WELLSTONE, Ms. MOSELEY-BRAUN, Mr. BRYAN, Mr. FORD, Mr. LAUTENBERG, Mr. INOUYE, Mr. CAMPBELL, Mr. KERREY, Mr. MCCONNELL, Mr. LEVIN, Mr. HELMS, Mr. GRASSLEY, Mr. DOMENICI, Mr. KERRY, Ms. SNOWE, Mr. SIMPSON, Mr. LEAHY, Mr. GLENN, Mr. ROBB, Mr. STEVENS, Mrs. FEINSTEIN, Mr. BIDEN, Mr. GRAMS, Mr. D'AMATO, Mr. HOLLINGS, Mrs. HUTCHISON, Mr. KOHL, Mr. GRAHAM, Mr. WARNER, Mr. MOYNIHAN, Mr. DODD, Mr. BREAUX, Mr. PRESSLER, Mr. SPECTER, Mr. COHEN, Mr. INHOFE, Mr. BAUCUS, Mr. DORGAN, and Mr. WYDEN) proposed an amendment to the bill, H.R. 3666, supra; as follows:

At the appropriate place, add the following:

TITLE ___—NEWBORNS' AND MOTHERS' HEALTH PROTECTION ACT OF 1996

SEC. ___1. SHORT TITLE.

This title may be cited as the "Newborns' and Mothers' Health Protection Act of 1996".

SEC. ___2. FINDINGS.

Congress finds that—

(1) the length of post-delivery inpatient care should be based on the unique characteristics of each mother and her newborn child, taking into consideration the health of the mother, the health and stability of the newborn, the ability and confidence of the mother and father to care for the newborn, the adequacy of support systems at home, and the access of the mother and newborn to appropriate follow-up health care; and

(2) the timing of the discharge of a mother and her newborn child from the hospital should be made by the attending provider in consultation with the mother.

SEC. ___3. REQUIRED COVERAGE FOR MINIMUM HOSPITAL STAY FOLLOWING BIRTH.

(a) IN GENERAL.—Except as provided in subsection (b), a health plan or an employee health benefit plan that provides maternity benefits, including benefits for childbirth, shall ensure that coverage is provided with respect to a mother who is a participant, beneficiary, or policyholder under such plan and her newborn child for a minimum of 48 hours of inpatient length of stay following a normal vaginal delivery, and a minimum of 96 hours of inpatient length of stay following a caesarean section, without requiring the attending provider to obtain authorization from the health plan or employee health benefit plan.

(b) EXCEPTION.—Notwithstanding subsection (a), a health plan or an employee health benefit plan shall not be required to provide coverage for post-delivery inpatient length of stay for a mother who is a participant, beneficiary, or policyholder under such plan and her newborn child for the period referred to in subsection (a) if—

(1) a decision to discharge the mother and her newborn child prior to the expiration of such period is made by the attending provider in consultation with the mother; and

(2) the health plan or employee health benefit plan provides coverage for post-delivery follow-up care as described in section ___4.

SEC. ___4. POST-DELIVERY FOLLOW-UP CARE.

(a) IN GENERAL.—

(1) GENERAL RULE.—In the case of a decision to discharge a mother and her newborn child from the inpatient setting prior to the expiration of 48 hours following a normal vaginal delivery or 96 hours following a caesarean section, the health plan or employee health benefit plan shall provide coverage for timely post-delivery care. Such health care shall be provided to a mother and her newborn child by a registered nurse, physician, nurse practitioner, nurse midwife or physician assistant experienced in maternal and child health in—

(A) the home, a provider's office, a hospital, a birthing center, an intermediate care facility, a federally qualified health center, a federally qualified rural health clinic, or a State health department maternity clinic; or

(B) another setting determined appropriate under regulations promulgated by the Secretary, in consultation with the Secretary of Health and Human Services;

except that such coverage shall ensure that the mother has the option to be provided with such care in the home. The attending provider in consultation with the mother shall decide the most appropriate location for follow-up care.

(2) CONSIDERATIONS BY SECRETARY.—In promulgating regulations under paragraph (1)(B), the Secretary shall consider telemedicine and other innovative means to provide follow-up care and shall consider care in both urban and rural settings.

(b) TIMELY CARE.—As used in subsection (a), the term "timely post-delivery care" means health care that is provided—

(1) following the discharge of a mother and her newborn child from the inpatient setting; and

(2) in a manner that meets the health care needs of the mother and her newborn child, that provides for the appropriate monitoring of the conditions of the mother and child, and that occurs not later than the 72-hour period immediately following discharge.

(c) CONSISTENCY WITH STATE LAW.—The Secretary shall, with respect to regulations promulgated under subsection (a) concerning appropriate post-delivery care settings, ensure that, to the extent practicable, such regulations are consistent with State licensing and practice laws.

SEC. ___5. PROHIBITIONS.

In implementing the requirements of this title, a health plan or an employee health benefit plan may not—

(1) deny enrollment, renewal, or continued coverage to a mother and her newborn child who are participants, beneficiaries or policyholders based on compliance with this title;

(2) provide monetary payments or rebates to mothers to encourage such mothers to request less than the minimum coverage required under this title;

(3) penalize or otherwise reduce or limit the reimbursement of an attending provider because such provider provided treatment in accordance with this title; or

(4) provide incentives (monetary or otherwise) to an attending provider to induce such provider to provide treatment to an individual policyholder, participant, or beneficiary in a manner inconsistent with this title.

SEC. ___6. NOTICE.

(a) EMPLOYEE HEALTH BENEFIT PLAN.—An employee health benefit plan shall provide conspicuous notice to each participant regarding coverage required under this Act not later than 120 days after the date of enactment of this title, and as part of its summary plan description.

(b) HEALTH PLAN.—A health plan shall provide notice to each policyholder regarding coverage required under this title. Such notice shall be in writing, prominently positioned, and be transmitted—

(1) in a mailing made within 120 days of the date of enactment of this title by such plan to the policyholder; and

(2) as part of the annual informational packet sent to the policyholder.

SEC. ___7. APPLICABILITY.

(a) CONSTRUCTION.—

(1) IN GENERAL.—A requirement or standard imposed under this title on a health plan shall be deemed to be a requirement or standard imposed on the health plan issuer. Such requirements or standards shall be enforced by the State insurance commissioner for the State involved or the official or officials designated by the State to enforce the requirements of this title. In the case of a health plan offered by a health plan issuer in connection with an employee health benefit plan, the requirements or standards imposed under this title shall be enforced with respect to the health plan issuer by the State insurance commissioner for the State involved or the official or officials designated by the State to enforce the requirements of this title.

(2) LIMITATION.—Except as provided in section ___8(c), the Secretary shall not enforce the requirements or standards of this title as they relate to health plan issuers or health plans. In no case shall a State enforce the requirements or standards of this title as they relate to employee health benefit plans.

(b) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to affect or modify the provisions of section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144).

(c) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to require that a mother who is a participant, beneficiary, or policyholder covered under this title—

(1) give birth in a hospital; or

(2) stay in the hospital for a fixed period of time following the birth of her child.

SEC. ___8. ENFORCEMENT.

(a) HEALTH PLAN ISSUERS.—Each State shall require that each health plan issued, sold, renewed, offered for sale or operated in such State by a health plan issuer meet the standards established under this title. A State shall submit such information as required by the Secretary demonstrating effective implementation of the requirements of this title.

(b) EMPLOYEE HEALTH BENEFIT PLANS.—With respect to employee health benefit plans, the standards established under this title shall be enforced in the same manner as provided for under sections 502, 504, 506, and 510 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132, 1134, 1136, and 1140). The civil penalties contained in paragraphs (1) and (2) of section 502(c) of such Act (29 U.S.C. 1132(c)(1) and (2)) shall apply to any information required by the Secretary to be disclosed and reported under this section.

(c) FAILURE TO ENFORCE.—In the case of the failure of a State to substantially enforce the standards and requirements set forth in this title with respect to health plans, the Secretary, in consultation with the Secretary of Health and Human Services, shall enforce the standards of this title in such State. In the case of a State that fails to substantially enforce the standards set forth in this title, each health plan issuer operating in such State shall be subject to civil enforcement as provided for under sections 502, 504, 506, and 510 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132, 1134, 1136, and 1140). The civil penalties contained in paragraphs (1) and (2) of section 502(c) of such Act (29 U.S.C. 1132(c)(1) and (2)) shall apply to any information required by the Secretary to be disclosed and reported under this section.

(d) REGULATIONS.—The Secretary, in consultation with the Secretary of Health and Human Services, may promulgate such regulations as may be necessary or appropriate to carry out this title.

SEC. ___9. DEFINITIONS.

As used in this title:

(1) ATTENDING PROVIDER.—The term "attending provider" shall include—

(A) the obstetrician-gynecologists, pediatricians, family physicians, and other physicians primarily responsible for the care of a mother and newborn; and

(B) the nurse midwives and nurse practitioners primarily responsible for the care of a mother and her newborn child in accordance with State licensure and certification laws.

(2) BENEFICIARY.—The term "beneficiary" has the meaning given such term under section 3(8) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(8)).

(3) EMPLOYEE HEALTH BENEFIT PLAN.—

(A) IN GENERAL.—The term "employee health benefit plan" means any employee welfare benefit plan, governmental plan, or church plan (as defined under paragraphs (1), (32), and (33) of section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002 (1), (32), and (33))) that provides or pays for health benefits (such as provider and hospital benefits) for participants and beneficiaries whether—

(i) directly;

(ii) through a health plan offered by a health plan issuer as defined in paragraph (4); or

(iii) otherwise.

(B) RULE OF CONSTRUCTION.—An employee health benefit plan shall not be construed to be a health plan or a health plan issuer.

(C) ARRANGEMENTS NOT INCLUDED.—Such term does not include the following, or any combination thereof:

(i) Coverage only for accident, or disability income insurance, or any combination thereof.

(ii) Medicare supplemental health insurance (as defined under section 1882(g)(1) of the Social Security Act).

(iii) Coverage issued as a supplement to liability insurance.

(iv) Liability insurance, including general liability insurance and automobile liability insurance.

(v) Workers compensation or similar insurance.

(vi) Automobile medical payment insurance.

(vii) Coverage for a specified disease or illness.

(viii) Hospital or fixed indemnity insurance.

(ix) Short-term limited duration insurance.

(x) Credit-only, dental-only, or vision-only insurance.

(xi) A health insurance policy providing benefits only for long-term care, nursing home care, home health care, community-based care, or any combination thereof.

(4) GROUP PURCHASER.—The term "group purchaser" means any person (as defined under paragraph (9) of section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(9)) or entity that purchases or pays for health benefits (such as provider or hospital benefits) on behalf of participants or beneficiaries in connection with an employee health benefit plan.

(5) HEALTH PLAN.—

(A) IN GENERAL.—The term "health plan" means any group health plan or individual health plan.

(B) GROUP HEALTH PLAN.—The term "group health plan" means any contract, policy, certificate or other arrangement offered by a health plan issuer to a group purchaser that provides or pays for health benefits (such as provider and hospital benefits) in connection with an employee health benefit plan.

(C) INDIVIDUAL HEALTH PLAN.—The term "individual health plan" means any contract, policy, certificate or other arrangement offered to individuals by a health plan issuer that provides or pays for health benefits (such as provider and hospital benefits) and that is not a group health plan.

(D) ARRANGEMENTS NOT INCLUDED.—Such term does not include the following, or any combination thereof:

(i) Coverage only for accident, or disability income insurance, or any combination thereof.

(ii) Medicare supplemental health insurance (as defined under section 1882(g)(1) of the Social Security Act).

(iii) Coverage issued as a supplement to liability insurance.

(iv) Liability insurance, including general liability insurance and automobile liability insurance.

(v) Workers compensation or similar insurance.

(vi) Automobile medical payment insurance.

(vii) Coverage for a specified disease or illness.

(viii) Hospital or fixed indemnity insurance.

(ix) Short-term limited duration insurance.

(x) Credit-only, dental-only, or vision-only insurance.

(xi) A health insurance policy providing benefits only for long-term care, nursing home care, home health care, community-based care, or any combination thereof.

(E) CERTAIN PLANS INCLUDED.—Such term includes any plan or arrangement not described in any clause of subparagraph (D) which provides for benefit payments, on a periodic basis, for—

(i) a specified disease or illness, or

(ii) a period of hospitalization,

without regard to the costs incurred or services rendered during the period to which the payments relate.

(6) HEALTH PLAN ISSUER.—The term "health plan issuer" means any entity that is licensed (prior to or after the date of enactment of this title) by a State to offer a health plan.

(7) PARTICIPANT.—The term "participant" has the meaning given such term under section 3(7) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(7)).

(8) SECRETARY.—The term "Secretary" unless otherwise specified means the Secretary of Labor.

SEC. ___10. PREEMPTION.

(a) IN GENERAL.—The provisions of sections ___3, ___5, and ___6 relating to inpatient care shall not preempt a State law or regulation—

(1) that provides greater protections to patients or policyholders than those required in this title;

(2) that requires health plans to provide coverage for at least 48 hours of inpatient length of stay following a normal vaginal delivery, and at least 96 hours of inpatient length of stay following a caesarean section;

(3) that requires health plans to provide coverage for maternity and pediatric care in accordance with guidelines established by the American College of Obstetricians and Gynecologists, the American Academy of Pediatrics, or other established professional medical associations; or

(4) that leaves decisions regarding appropriate length of stay entirely to the attending provider, in consultation with the mother.

(b) FOLLOW-UP CARE.—The provisions of section ___4 relating to follow-up care shall not preempt those provisions of State law or regulation that provide comparable or greater protection to patients or policyholders than those required under this title or that provide mothers and newborns with an option of timely post delivery follow-up care (as defined in section ___4(b)) in the home.

(c) EMPLOYEE HEALTH BENEFIT PLANS.—Nothing in this section affects the application of this title to employee health benefit plans, as defined in section ___9(3).

SEC. ___11. REPORTS TO CONGRESS CONCERNING CHILDBIRTH.

(a) FINDINGS.—Congress finds that—

(1) childbirth is one part of a continuum of experience that includes prepregnancy, pregnancy and prenatal care, labor and delivery, the immediate postpartum period, and a longer period of adjustment for the newborn, the mother, and the family;

(2) health care practices across this continuum are changing in response to health care financing and delivery system changes, science and clinical research, and patient preferences; and

(3) there is a need to—

(A) examine the issues and consequences associated with the length of hospital stays following childbirth;

(B) examine the follow-up practices for mothers and newborns used in conjunction with shorter hospital stays;

(C) identify appropriate health care practices and procedures with regard to the hospital discharge of newborns and mothers;

(D) examine the extent to which such care is affected by family and environmental factors; and

(E) examine the content of care during hospital stays following childbirth.

(b) ADVISORY PANEL.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this title, the Secretary of Health and Human Services shall establish an advisory panel (hereafter referred to in this section as the "advisory panel") to—

(A) guide and review methods, procedures, and data collection necessary to conduct the study described in subsection (c) that is intended to enhance the quality, safety, and effectiveness of health care services provided to mothers and newborns;

(B) develop a consensus among the members of the advisory panel regarding the appropriateness of the specific requirements of this title; and

(C) prepare and submit to the Secretary of Health and Human Services, as part of the report of the Secretary submitted under subsection (d), a report summarizing the consensus developed under subparagraph (B) if any, including the reasons for not reaching such a consensus.

(2) PARTICIPATION.—

(A) DEPARTMENT REPRESENTATIVES.—The Secretary of Health and Human Services shall ensure that representatives from within the Department of Health and Human Services that have expertise in the area of maternal and child health or in outcomes research are appointed to the advisory panel established under paragraph (1).

(B) REPRESENTATIVES OF PUBLIC AND PRIVATE SECTOR ENTITIES.—

(i) IN GENERAL.—The Secretary of Health and Human Services shall ensure that members of the advisory panel include representatives of public and private sector entities having knowledge or experience in one or more of the following areas:

(I) Patient care.

(II) Patient education.

(III) Quality assurance.

(IV) Outcomes research.

(V) Consumer issues.

(ii) REQUIREMENT.—The panel shall include representatives from each of the following categories:

(I) Health care practitioners.

(II) Health plans.

(III) Hospitals.

(IV) Employers.

(V) States.

(VI) Consumers.

(c) STUDIES.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall conduct a study of—

(A) the factors affecting the continuum of care with respect to maternal and child health care, including outcomes following childbirth;

(B) the factors determining the length of hospital stay following childbirth;

(C) the diversity of negative or positive outcomes affecting mothers, infants, and families;

(D) the manner in which post natal care has changed over time and the manner in which that care has adapted or related to changes in the length of hospital stay, taking into account—

(i) the types of post natal care available and the extent to which such care is accessed; and

(ii) the challenges associated with providing post natal care to all populations, including vulnerable populations, and solutions for overcoming these challenges; and

(E) the financial incentives that may—

(i) impact the health of newborns and mothers; and

(ii) influence the clinical decisionmaking of health care providers.

(2) RESOURCES.—The Secretary of Health and Human Services shall provide to the advisory panel the resources necessary to carry out the duties of the advisory panel.

(d) REPORTS.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall prepare and submit to the Committee on Labor and Human Resources of the Senate and the Committee on Commerce of the House of Representatives a report that contains—

(A) a summary of the study conducted under subsection (c);

(B) a summary of the best practices used in the public and private sectors for the care of newborns and mothers;

(C) recommendations for improvements in prenatal care, post natal care, delivery and follow-up care, and whether the implementation of such improvements should be accomplished by the private health care sector, Federal or State governments, or any combination thereof; and

(D) limitations on the databases in existence on the date of enactment of this title.

(2) SUBMISSION OF REPORTS.—The Secretary of Health and Human Services shall prepare and submit to the Committees referred to in paragraph (1)—

(A) an initial report concerning the study conducted under subsection (c) and the report required under subsection (d), not later than 18 months after the date of enactment of this title;

(B) an interim report concerning such study and report not later than 3 years after the date of enactment of this title; and

(C) a final report concerning such study and report not later than 5 years after the date of enactment of this title.

(e) TERMINATION OF PANEL.—The advisory panel shall terminate on the date that occurs 60 days after the date on which the last report is submitted under this section.

SEC. ___12. SALE OF GOVERNORS ISLAND, NEW YORK.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Administrator of General Services shall dispose of by sale at fair market value all rights, title, and interests of the United States in and to the land of, and improvements to, Governors Island, New York.

(b) RIGHT OF FIRST REFUSAL.—Before a sale is made under subsection (a) to any other parties, the State of New York and the city of New York shall be given the right of first refusal to purchase all or part of Governors Island. Such right may be exercised by either the State of New York or the city of New York or by both parties acting jointly.

(c) PROCEEDS.—Proceeds from the disposal of Governors Island under subsection (a) shall be deposited in the general fund of the Treasury and credited as miscellaneous receipts.

SEC. ___13. SALE OF AIR RIGHTS.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Administrator of

General Services shall sell, at fair market value and in a manner to be determined by the Administrator, the air rights adjacent to Washington Union Station described in subsection (b), including air rights conveyed to the Administrator under subsection (d). The Administrator shall complete the sale by such date as is necessary to ensure that the proceeds from the sale will be deposited in accordance with subsection (c).

(b) DESCRIPTION.—The air rights referred to in subsection (a) total approximately 16.5 acres and are depicted on the plat map of the District of Columbia as follows:

(1) Part of lot 172, square 720.

(2) Part of lots 172 and 823, square 720.

(3) Part of lot 811, square 717.

(c) PROCEEDS.—Before September 30, 1997, proceeds from the sale of air rights under subsection (a) shall be deposited in the general fund of the Treasury and credited as miscellaneous receipts.

(d) CONVEYANCE OF AMTRAK AIR RIGHTS.—

(1) GENERAL RULE.—As a condition of future Federal financial assistance, Amtrak shall convey to the Administrator of General Services on or before December 31, 1996, at no charge, all of the air rights of Amtrak described in subsection (b).

(2) FAILURE TO COMPLY.—If Amtrak does not meet the condition established by paragraph (1), Amtrak shall be prohibited from obligating Federal funds after March 1, 1997.

SEC. ___14. EFFECTIVE DATE.

Except as otherwise provided for in this title, the provisions of this title shall apply as follows:

(1) With respect to health plans, such provisions shall apply to such plans on the first day of the contract year beginning on or after January 1, 1998.

(2) With respect to employee health benefit plans, such provisions shall apply to such plans on the first day of the first plan year beginning on or after January 1, 1998.

FRIST AMENDMENT NO. 5193

Mr. FRIST proposed an amendment to amendment No. 5192 proposed by Mr. BRADLEY to the bill, H.R. 3666, supra; as follows:

Strike all after the first word of the amendment and insert the following:

___—NEWBORNS' AND MOTHERS' HEALTH PROTECTION ACT OF 1996

SEC. ___1. SHORT TITLE.

This title may be cited as the "Newborns' and Mothers' Health Protection Act of 1996".

SEC. ___2. FINDINGS.

Congress finds that—

(1) the length of post-delivery inpatient care should be based on the unique characteristics of each mother and her newborn child, taking into consideration the health of the mother, the health and stability of the newborn, the ability and confidence of the mother and father to care for the newborn, the adequacy of support systems at home, and the access of the mother and newborn to appropriate follow-up health care; and

(2) the timing of the discharge of a mother and her newborn child from the hospital should be made by the attending provider in consultation with the mother.

SEC. ___3. REQUIRED COVERAGE FOR MINIMUM HOSPITAL STAY FOLLOWING BIRTH.

(a) IN GENERAL.—Except as provided in subsection (b), a health plan or an employee health benefit plan that provides maternity benefits, including benefits for childbirth, shall ensure that coverage is provided with respect to a mother who is a participant, beneficiary, or policyholder under such plan and her newborn child for a minimum of 48 hours of inpatient length of stay following a normal vaginal delivery, and a minimum of 96 hours of inpatient length of stay following a caesarean section, without requiring the attending provider to obtain authorization from the health plan or employee health benefit plan.

(b) EXCEPTION.—Notwithstanding subsection (a), a health plan or an employee health benefit plan shall not be required to provide coverage for post-delivery inpatient length of stay for a mother who is a participant, beneficiary, or policyholder under such plan and her newborn child for the period referred to in subsection (a) if—

(1) a decision to discharge the mother and her newborn child prior to the expiration of such period is made by the attending provider in consultation with the mother; and

(2) the health plan or employee health benefit plan provides coverage for post-delivery follow-up care as described in section ___4.

SEC. ___4. POST-DELIVERY FOLLOW-UP CARE.

(a) IN GENERAL.—

(1) GENERAL RULE.—In the case of a decision to discharge a mother and her newborn child from the inpatient setting prior to the expiration of 48 hours following a normal vaginal delivery or 96 hours following a caesarean section, the health plan or employee health benefit plan shall provide coverage for timely post-delivery care. Such health care shall be provided to a mother and her newborn child by a registered nurse, physician, nurse practitioner, nurse midwife or physician assistant experienced in maternal and child health in—

(A) the home, a provider's office, a hospital, a birthing center, an intermediate care facility, a federally qualified health center, a federally qualified rural health clinic, or a State health department maternity clinic; or

(B) another setting determined appropriate under regulations promulgated by the Secretary, in consultation with the Secretary of Health and Human Services.

The attending provider in consultation with the mother shall decide the most appropriate location for follow-up care.

(2) CONSIDERATIONS BY SECRETARY.—In promulgating regulations under paragraph (1)(B), the Secretary shall consider telemedicine and other innovative means to provide follow-up care and shall consider care in both urban and rural settings.

(b) TIMELY CARE.—As used in subsection (a), the term "timely post-delivery care" means health care that is provided—

(1) following the discharge of a mother and her newborn child from the inpatient setting; and

(2) in a manner that meets the health care needs of the mother and her newborn child, that provides for the appropriate monitoring of the conditions of the mother and child, and that occurs not later than the 72-hour period immediately following discharge.

(c) CONSISTENCY WITH STATE LAW.—The Secretary shall, with respect to regulations promulgated under subsection (a) concerning appropriate post-delivery care settings, ensure that, to the extent practicable, such regulations are consistent with State licensing and practice laws.

SEC. ___5. PROHIBITIONS.

In implementing the requirements of this title, a health plan or an employee health benefit plan may not—

(1) deny enrollment, renewal, or continued coverage to a mother and her newborn child who are participants, beneficiaries or policyholders based on compliance with this title;

(2) provide monetary payments or rebates to mothers to encourage such mothers to request less than the minimum coverage required under this title;

(3) penalize or otherwise reduce or limit the reimbursement of an attending provider because such provider provided treatment to an individual patient in accordance with this title; or

(4) provide incentives (monetary or otherwise) to an attending provider to induce such provider to provide treatment to an individual policyholder, participant, or beneficiary in a manner inconsistent with this title.

SEC. ___6. NOTICE.

(a) EMPLOYEE HEALTH BENEFIT PLAN.—An employee health benefit plan shall provide conspicuous notice to each participant regarding coverage required under this Act not later than 120 days after the date of enactment of this title, and as part of its summary plan description.

(b) HEALTH PLAN.—A health plan shall provide notice to each policyholder regarding coverage required under this title. Such notice shall be in writing, prominently positioned, and be transmitted—

(1) in a mailing made within 120 days of the date of enactment of this title by such plan to the policyholder; and

(2) as part of the annual informational packet sent to the policyholder.

SEC. ___7. APPLICABILITY.

(a) CONSTRUCTION.—

(1) IN GENERAL.—A requirement or standard imposed under this title on a health plan shall be deemed to be a requirement or standard imposed on the health plan issuer. Such requirements or standards shall be enforced by the State insurance commissioner for the State involved or the official or officials designated by the State to enforce the requirements of this title. In the case of a health plan offered by a health plan issuer in connection with an employee health benefit plan, the requirements or standards imposed under this title shall be enforced with respect to the health plan issuer by the State insurance commissioner for the State involved or the official or officials designated by the State to enforce the requirements of this title.

(2) LIMITATION.—Except as provided in section ___8(c), the Secretary shall not enforce the requirements or standards of this title as they relate to health plan issuers or health plans. In no case shall a State enforce the requirements or standards of this title as they relate to employee health benefit plans.

(b) ERISA.—Nothing in this title shall be construed to affect or modify the provisions of section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144).

(c) EFFECT ON MOTHER.—Nothing in this title shall be construed to require that a mother who is a participant, beneficiary, or policyholder covered under this title—

(1) give birth in a hospital; or

(2) stay in the hospital for a fixed period of time following the birth of her child.

(d) LEVEL AND TYPE OF REIMBURSEMENTS.—Nothing in this title shall be construed to prevent a health plan or an employee health benefit plan from negotiating the level and type of reimbursement with an attending provider for care provided in accordance with this title.

SEC. ___8. ENFORCEMENT.

(a) HEALTH PLAN ISSUERS.—Each State shall require that each health plan issued, sold, renewed, offered for sale or operated in such State by a health plan issuer meet the standards established under this title. A

State shall submit such information as required by the Secretary demonstrating effective implementation of the requirements of this title.

(b) EMPLOYEE HEALTH BENEFIT PLANS.—With respect to employee health benefit plans, the standards established under this title shall be enforced in the same manner as provided for under sections 502, 504, 506, and 510 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132, 1134, 1136, and 1140). The civil penalties contained in paragraphs (1) and (2) of section 502(c) of such Act (29 U.S.C. 1132(c)(1) and (2)) shall apply to any information required by the Secretary to be disclosed and reported under this section.

(c) FAILURE TO ENFORCE.—In the case of the failure of a State to substantially enforce the standards and requirements set forth in this title with respect to health plans, the Secretary, in consultation with the Secretary of Health and Human Services, shall enforce the standards of this title in such State. In the case of a State that fails to substantially enforce the standards set forth in this title, each health plan issuer operating in such State shall be subject to civil enforcement as provided for under sections 502, 504, 506, and 510 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132, 1134, 1136, and 1140). The civil penalties contained in paragraphs (1) and (2) of section 502(c) of such Act (29 U.S.C. 1132(c)(1) and (2)) shall apply to any information required by the Secretary to be disclosed and reported under this section.

(d) REGULATIONS.—The Secretary, in consultation with the Secretary of Health and Human Services, may promulgate such regulations as may be necessary or appropriate to carry out this title.

SEC. ___9. DEFINITIONS.

As used in this title:

(1) ATTENDING PROVIDER.—The term "attending provider" shall include—

(A) the obstetrician-gynecologists, pediatricians, family physicians, and other physicians primarily responsible for the care of a mother and newborn; and

(B) the nurse midwives and nurse practitioners primarily responsible for the care of a mother and her newborn child in accordance with State licensure and certification laws.

(2) BENEFICIARY.—The term "beneficiary" has the meaning given such term under section 3(8) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(8)).

(3) EMPLOYEE HEALTH BENEFIT PLAN.—

(A) IN GENERAL.—The term "employee health benefit plan" means any employee welfare benefit plan, governmental plan, or church plan (as defined under paragraphs (1), (32), and (33) of section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002 (1), (32), and (33))) that provides or pays for health benefits (such as provider and hospital benefits) for participants and beneficiaries whether—

(i) directly;

(ii) through a health plan offered by a health plan issuer as defined in paragraph (4); or

(iii) otherwise.

(B) RULE OF CONSTRUCTION.—An employee health benefit plan shall not be construed to be a health plan or a health plan issuer.

(C) ARRANGEMENTS NOT INCLUDED.—Such term does not include the following, or any combination thereof:

(i) Coverage only for accident, or disability income insurance, or any combination thereof.

(ii) Medicare supplemental health insurance (as defined under section 1882(g)(1) of the Social Security Act).

(iii) Coverage issued as a supplement to liability insurance.

(iv) Liability insurance, including general liability insurance and automobile liability insurance.

(v) Workers compensation or similar insurance.

(vi) Automobile medical payment insurance.

(vii) Coverage for a specified disease or illness.

(viii) Hospital or fixed indemnity insurance.

(ix) Short-term limited duration insurance.

(x) Credit-only, dental-only, or vision-only insurance.

(xi) A health insurance policy providing benefits only for long-term care, nursing home care, home health care, community-based care, or any combination thereof.

(4) GROUP PURCHASER.—The term "group purchaser" means any person (as defined under paragraph (9) of section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(9)) or entity that purchases or pays for health benefits (such as provider or hospital benefits) on behalf of participants or beneficiaries in connection with an employee health benefit plan.

(5) HEALTH PLAN.—

(A) IN GENERAL.—The term "health plan" means any group health plan or individual health plan.

(B) GROUP HEALTH PLAN.—The term "group health plan" means any contract, policy, certificate or other arrangement offered by a health plan issuer to a group purchaser that provides or pays for health benefits (such as provider and hospital benefits) in connection with an employee health benefit plan.

(C) INDIVIDUAL HEALTH PLAN.—The term "individual health plan" means any contract, policy, certificate or other arrangement offered to individuals by a health plan issuer that provides or pays for health benefits (such as provider and hospital benefits) and that is not a group health plan.

(D) ARRANGEMENTS NOT INCLUDED.—Such term does not include the following, or any combination thereof:

(i) Coverage only for accident, or disability income insurance, or any combination thereof.

(ii) Medicare supplemental health insurance (as defined under section 1882(g)(1) of the Social Security Act).

(iii) Coverage issued as a supplement to liability insurance.

(iv) Liability insurance, including general liability insurance and automobile liability insurance.

(v) Workers compensation or similar insurance.

(vi) Automobile medical payment insurance.

(vii) Coverage for a specified disease or illness.

(viii) Hospital or fixed indemnity insurance.

(ix) Short-term limited duration insurance.

(x) Credit-only, dental-only, or vision-only insurance.

(xi) A health insurance policy providing benefits only for long-term care, nursing home care, home health care, community-based care, or any combination thereof.

(E) CERTAIN PLANS INCLUDED.—Such term includes any plan or arrangement not described in any clause of subparagraph (D) which provides for benefit payments, on a periodic basis, for—

(i) a specified disease or illness, or

(ii) a period of hospitalization,

without regard to the costs incurred or services rendered during the period to which the payments relate.

(6) HEALTH PLAN ISSUER.—The term "health plan issuer" means any entity that is licensed (prior to or after the date of enactment of this title) by a State to offer a health plan.

(7) PARTICIPANT.—The term "participant" has the meaning given such term under section 3(7) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(7)).

(8) SECRETARY.—The term "Secretary" unless otherwise specified means the Secretary of Labor.

SEC. ___10. PREEMPTION.

(a) IN GENERAL.—The provisions of sections ___3, ___5, and ___6 relating to inpatient care shall not preempt a State law or regulation—

(1) that provides greater protections to patients or policyholders than those required in this title;

(2) that requires health plans to provide coverage for at least 48 hours of inpatient length of stay following a normal vaginal delivery, and at least 96 hours of inpatient length of stay following a caesarean section;

(3) that requires health plans to provide coverage for maternity and pediatric care in accordance with guidelines established by the American College of Obstetricians and Gynecologists, the American Academy of Pediatrics, or other established professional medical associations; or

(4) that leaves decisions regarding appropriate length of stay entirely to the attending provider, in consultation with the mother.

(b) FOLLOW-UP CARE.—The provisions of section ___4 relating to follow-up care shall not preempt those provisions of State law or regulation that provide comparable or greater protection to patients or policyholders than those required under this title or that provide mothers and newborns with an option of timely post delivery follow-up care (as defined in section ___4(b)) in the home.

(c) EMPLOYEE HEALTH BENEFIT PLANS.—Nothing in this section affects the application of this title to employee health benefit plans, as defined in section ___9(3).

SEC. ___11. REPORTS TO CONGRESS CONCERNING CHILDBIRTH.

(a) FINDINGS.—Congress finds that—

(1) childbirth is one part of a continuum of experience that includes prepregnancy, pregnancy and prenatal care, labor and delivery, the immediate postpartum period, and a longer period of adjustment for the newborn, the mother, and the family;

(2) health care practices across this continuum are changing in response to health care financing and delivery system changes, science and clinical research, and patient preferences; and

(3) there is a need to—

(A) examine the issues and consequences associated with the length of hospital stays following childbirth;

(B) examine the follow-up practices for mothers and newborns used in conjunction with shorter hospital stays;

(C) identify appropriate health care practices and procedures with regard to the hospital discharge of newborns and mothers;

(D) examine the extent to which such care is affected by family and environmental factors; and

(E) examine the content of care during hospital stays following childbirth.

(b) ADVISORY PANEL.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this title, the Secretary of Health and Human Services shall establish an advisory panel (hereafter referred to in this section as the "advisory panel") to—

(A) guide and review methods, procedures, and data collection necessary to conduct the study described in subsection (c) that is intended to enhance the quality, safety, and effectiveness of health care services provided to mothers and newborns;

(B) develop a consensus among the members of the advisory panel regarding the appropriateness of the specific requirements of this title; and

(C) prepare and submit to the Secretary of Health and Human Services, as part of the report of the Secretary submitted under subsection (d), a report summarizing the consensus developed under subparagraph (B) if any, including the reasons for not reaching such a consensus.

(2) PARTICIPATION.—

(A) DEPARTMENT REPRESENTATIVES.—The Secretary of Health and Human Services shall ensure that representatives from within the Department of Health and Human Services that have expertise in the area of maternal and child health or in outcomes research are appointed to the advisory panel established under paragraph (1).

(B) REPRESENTATIVES OF PUBLIC AND PRIVATE SECTOR ENTITIES.—

(i) IN GENERAL.—The Secretary of Health and Human Services shall ensure that members of the advisory panel include representatives of public and private sector entities having knowledge or experience in one or more of the following areas:

(I) Patient care.

(II) Patient education.

(III) Quality assurance.

(IV) Outcomes research.

(V) Consumer issues.

(ii) REQUIREMENT.—The panel shall include representatives from each of the following categories:

(I) Health care practitioners.

(II) Health plans.

(III) Hospitals.

(IV) Employers.

(V) States.

(VI) Consumers.

(c) STUDIES.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall conduct a study of—

(A) the factors affecting the continuum of care with respect to maternal and child health care, including outcomes following childbirth;

(B) the factors determining the length of hospital stay following childbirth;

(C) the diversity of negative or positive outcomes affecting mothers, infants, and families;

(D) the manner in which post natal care has changed over time and the manner in which that care has adapted or related to changes in the length of hospital stay, taking into account—

(i) the types of post natal care available and the extent to which such care is accessed; and

(ii) the challenges associated with providing post natal care to all populations, including vulnerable populations, and solutions for overcoming these challenges; and

(E) the financial incentives that may—

(i) impact the health of newborns and mothers; and

(ii) influence the clinical decisionmaking of health care providers.

(2) RESOURCES.—The Secretary of Health and Human Services shall provide to the advisory panel the resources necessary to carry out the duties of the advisory panel.

(d) REPORTS.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall prepare and submit to the Committee on Labor and Human Resources of the Senate and the Committee on Commerce of the House of Representatives a report that contains—

(A) a summary of the study conducted under subsection (c);

(B) a summary of the best practices used in the public and private sectors for the care of newborns and mothers;

(C) recommendations for improvements in prenatal care, post natal care, delivery and follow-up care, and whether the implementation of such improvements should be accomplished by the private health care sector, Federal or State governments, or any combination thereof; and

(D) limitations on the databases in existence on the date of enactment of this title.

(2) SUBMISSION OF REPORTS.—The Secretary of Health and Human Services shall prepare and submit to the Committees referred to in paragraph (1)—

(A) an initial report concerning the study conducted under subsection (c) and the report required under subsection (d), not later than 18 months after the date of enactment of this title;

(B) an interim report concerning such study and report not later than 3 years after the date of enactment of this title; and

(C) a final report concerning such study and report not later than 5 years after the date of enactment of this title.

(e) TERMINATION OF PANEL.—The advisory panel shall terminate on the date that occurs 60 days after the date on which the last report is submitted under this section.

SEC. ___12. SALE OF GOVERNORS ISLAND, NEW YORK.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Administrator of General Services shall dispose of by sale at fair market value all rights, title, and interests of the United States in and to the land of, and improvements to, Governors Island, New York.

(b) RIGHT OF FIRST REFUSAL.—Before a sale is made under subsection (a) to any other parties, the State of New York and the city of New York shall be given the right of first refusal to purchase all or part of Governors Island. Such right may be exercised by either the State of New York or the city of New York or by both parties acting jointly.

(c) PROCEEDS.—Proceeds from the disposal of Governors Island under subsection (a) shall be deposited in the general fund of the Treasury and credited as miscellaneous receipts.

SEC. ___13. SALE OF AIR RIGHTS.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Administrator of General Services shall sell, at fair market value and in a manner to be determined by the Administrator, the air rights adjacent to Washington Union Station described in subsection (b), including air rights conveyed to the Administrator under subsection (d). The Administrator shall complete the sale by such date as is necessary to ensure that the proceeds from the sale will be deposited in accordance with subsection (c).

(b) DESCRIPTION.—The air rights referred to in subsection (a) total approximately 16.5 acres and are depicted on the plat map of the District of Columbia as follows:

(1) Part of lot 172, square 720.

(2) Part of lots 172 and 823, square 720.

(3) Part of lot 811, square 717.

(c) PROCEEDS.—Before September 30, 1997, proceeds from the sale of air rights under subsection (a) shall be deposited in the general fund of the Treasury and credited as miscellaneous receipts.

(d) CONVEYANCE OF AMTRAK AIR RIGHTS.—

(1) GENERAL RULE.—As a condition of future Federal financial assistance, Amtrak shall convey to the Administrator of General Services on or before December 31, 1996, at no charge, all of the air rights of Amtrak described in subsection (b).

(2) FAILURE TO COMPLY.—If Amtrak does not meet the condition established by paragraph (1), Amtrak shall be prohibited from obligating Federal funds after March 1, 1997.

SEC. ___14. EFFECTIVE DATE.

Except as otherwise provided for in this title, the provisions of this title shall apply as follows:

(1) With respect to health plans, such provisions shall apply to such plans on the first day of the contract year beginning on or after January 1, 1998.

(2) With respect to employee health benefit plans, such provisions shall apply to such plans on the first day of the first plan year beginning on or after January 1, 1998.

DOMENICI (AND OTHERS) AMENDMENT NO. 5194

Mr. DOMENICI (for himself, Mr. WELLSTONE, Mr. SIMPSON, Mr. CONRAD, and Mr. KENNEDY) proposed an amendment to the bill, H.R. 3666, supra; as follows:

At the appropriate place, insert the following new title:

TITLE ___—MENTAL HEALTH PARITY

SEC. ___01. SHORT TITLE.

This title may be cited as the "Mental Health Parity Act of 1996".

SEC. ___02. PLAN PROTECTIONS FOR INDIVIDUALS WITH A MENTAL ILLNESS.

(a) PERMISSIBLE COVERAGE LIMITS UNDER A GROUP HEALTH PLAN.—

(1) AGGREGATE LIFETIME LIMITS.—

(A) IN GENERAL.—With respect to a group health plan offered by a health insurance issuer, that applies an aggregate lifetime limit to plan payments for medical or surgical services covered under the plan, if such plan also provides a mental health benefit such plan shall—

(i) include plan payments made for mental health services under the plan in such aggregate lifetime limit; or

(ii) establish a separate aggregate lifetime limit applicable to plan payments for mental health services under which the dollar amount of such limit (with respect to mental health services) is equal to or greater than the dollar amount of the aggregate lifetime limit on plan payments for medical or surgical services.

(B) NO LIFETIME LIMIT.—With respect to a group health plan offered by a health insurance issuer, that does not apply an aggregate lifetime limit to plan payments for medical or surgical services covered under the plan, such plan may not apply an aggregate lifetime limit to plan payments for mental health services covered under the plan.

(2) ANNUAL LIMITS.—

(A) IN GENERAL.—With respect to a group health plan offered by a health insurance issuer, that applies an annual limit to plan payments for medical or surgical services covered under the plan, if such plan also provides a mental health benefit such plan shall—

(i) include plan payments made for mental health services under the plan in such annual limit; or

(ii) establish a separate annual limit applicable to plan payments for mental health services under which the dollar amount of such limit (with respect to mental health services) is equal to or greater than the dollar amount of the annual limit on plan payments for medical or surgical services.

(B) NO ANNUAL LIMIT.—With respect to a group health plan offered by a health insurance issuer, that does not apply an annual limit to plan payments for medical or surgical services covered under the plan, such plan may not apply an annual limit to plan payments for mental health services covered under the plan.

(b) RULE OF CONSTRUCTION.—

(1) IN GENERAL.—Nothing in this section shall be construed as prohibiting a group health plan offered by a health insurance issuer, from—

(A) utilizing other forms of cost containment not prohibited under subsection (a); or

(B) applying requirements that make distinctions between acute care and chronic care.

(2) NONAPPLICABILITY.—This section shall not apply to—

(A) substance abuse or chemical dependency benefits; or

(B) health benefits or health plans paid for under title XVIII or XIX of the Social Security Act.

(3) STATE LAW.—Nothing in this section shall be construed to preempt any State law that provides for greater parity with respect to mental health benefits than that required under this section.

(c) SMALL EMPLOYER EXEMPTION.—

(1) IN GENERAL.—This section shall not apply to plans maintained by employers that employ less than 26 employees.

(2) APPLICATION OF CERTAIN RULES IN DETERMINATION OF EMPLOYER SIZE.—For purposes of this subsection—

(A) APPLICATION OF AGGREGATION RULE FOR EMPLOYERS.—All persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986 shall be treated as 1 employer.

(B) EMPLOYERS NOT IN EXISTENCE IN PRECEDING YEAR.—In the case of an employer which was not in existence throughout the preceding calendar year, the determination of whether such employer is a small employer shall be based on the average number of employees that it is reasonably expected such employer will employ on business days in the current calendar year.

(C) PREDECESSORS.—Any reference in this subsection to an employer shall include a reference to any predecessor of such employer.

SEC. ___03. DEFINITIONS.

For purposes of this title:

(1) GROUP HEALTH PLAN.—

(A) IN GENERAL.—The term "group health plan" means an employee welfare benefit plan (as defined in section 3(1) of the Employee Retirement Income Security Act of 1974) to the extent that the plan provides medical care (as defined in paragraph (2)) and including items and services paid for as medical care) to employees or their dependents (as defined under the terms of the plan) directly or through insurance, reimbursement, or otherwise.

(B) MEDICAL CARE.—The term "medical care" means amounts paid for—

(i) the diagnosis, cure, mitigation, treatment, or prevention of disease, or amounts paid for the purpose of affecting any structure or function of the body,

(ii) amounts paid for transportation primarily for and essential to medical care referred to in clause (i), and

(iii) amounts paid for insurance covering medical care referred to in clauses (i) and (ii).

(2) HEALTH INSURANCE COVERAGE.—The term "health insurance coverage" means benefits consisting of medical care (provided directly, through insurance or reimbursement, or otherwise and including items and services paid for as medical care) under any hospital or medical service policy or certificate, hospital or medical service plan contract, or health maintenance organization contract offered by a health insurance issuer.

(3) HEALTH INSURANCE ISSUER.—The term "health insurance issuer" means an insurance company, insurance service, or insurance organization (including a health maintenance organization, as defined in paragraph (4)) which is licensed to engage in the business of insurance in a State and which is subject to State law which regulates insurance (within the meaning of section 514(b)(2) of the Employee Retirement Income Security Act of 1974), and includes a plan sponsor described in section 3(16)(B) of the Employee Retirement Income Security Act of 1974 in the case of a group health plan which is an employee welfare benefit plan (as defined in section 3(1) of such Act). Such term does not include a group health plan.

(4) HEALTH MAINTENANCE ORGANIZATION.—The term "health maintenance organization" means—

(A) a federally qualified health maintenance organization (as defined in section 1301(a) of the Public Health Service Act),

(B) an organization recognized under State law as a health maintenance organization, or

(C) a similar organization regulated under State law for solvency in the same manner and to the same extent as such a health maintenance organization.

(5) STATE.—The term "State" means each of the several States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

SEC. ___04. SUNSET.

Sections 1 through 3 shall cease to be effective on September 30, 2001.

SEC. ___05. FEDERAL EMPLOYEE HEALTH BENEFIT PROGRAM.

For the Federal Employee Health Benefit Program, sections 1 through 3 will take effect on October 1, 1997.

BROWN AMENDMENT NO. 5195

Mr. BROWN proposed an amendment to amendment No. 5194 proposed by Mr. DOMENICI to the bill, H.R. 3666, supra; as follows:

At the appropriate place in the amendment, insert the following:

Notwithstanding the provisions of this title, consumers shall retain the freedoms to choose a group health plan with coverage limitations of their choice, even if such coverage limitations for mental health services are inconsistent with section 2 of this title.

GRAMM AMENDMENT NO. 5196

Mr. GRAMM proposed an amendment to amendment No. 5194 proposed by Mr. DOMENICI to the bill, H.R. 3666, supra; as follows:

At the appropriate place in the amendment, insert the following:

Notwithstanding the provisions of this title, if the provisions of this title result in a one percent or greater increase in the cost of a group health plan's premiums, the purchaser is exempt from the provisions of this title.

HARKIN (AND OTHERS) AMENDMENT NO. 5197

Mr. HARKIN (for himself, Mr. MOYNIHAN, Mr. SPECTER, and Mr. KERRY) proposed an amendment to the bill, H.R. 3666, supra; as follows:

At the appropriate place, add the following:

SEC. . Without regard to any provision in this bill, no plan for the allocation of health care resources (including personnel and funds) used or implemented by the Department of Veterans Affairs among the health care facilities of the Department shall reduce the funding going to any state for veterans medical care for the fiscal year ending September 30, 1997, below its fiscal year 1996 level of funding if the total funding provided for veterans medical care in fiscal year 1997 exceeds the Fiscal year 1996 funding level.

BINGAMAN (AND OTHERS) AMENDMENT NO. 5198

Mr. BOND (for Mr. BINGAMAN for himself, Mr. MURKOWSKI, and Mr. ROCKEFELLER) proposed an amendment to the bill, H.R. 3666, supra; as follows:

On page 104, below line 24, add the following:

Sec. 421 (a) REVISION OF NAME OF JAPAN-UNITED STATES FRIENDSHIP COMMISSION.—(1)(A) The first sentence of section 4(a) of the Japan-United States Friendship Act (22 U.S.C. 2903(a)) is amended by striking out "Japan-United States Friendship Commission" and inserting in lieu thereof "United States-Japan Commission".

(B) The section heading of such section is amended to read as follows:

"UNITED STATES-JAPAN COMMISSION"

(2) Subsection (c) of section 3 of that Act (22 U.S.C. 2902) is amended by striking out "Japan-United States Friendship Commission" and inserting in lieu thereof "United States-Japan Commission".

(3) Any reference to the Japan-United States Friendship Commission in any Federal law, Executive order, regulation, delegation of authority, or other document shall be deemed to refer to the United States-Japan Commission.

FEINSTEIN AMENDMENT NO. 5199

Mr. BOND (for Mrs. FEINSTEIN) proposed an amendment to the bill, H.R. 3666, supra; as follows:

On page 104, below line 24, add the following:

SEC. 421. (a) Subject to the concurrence of the Administrator of the General Services Administration (GSA) and notwithstanding Sec. 707 of Public Law 103-433, the Administrator of the National Aeronautics and Space Administration may convey to the City of Downey, California, all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately 60 acres and known as Parcels III, IV, V, and VI of the NASA Industrial Plant, Downey, California.

(b)(1) DELAY IN PAYMENT OF CONSIDERATION.—After the end of the 20-year period

beginning on the date on which the conveyance under subsection (a) is completed, the City of Downey shall pay to the United States an amount equal to fair market value of the conveyed property, as of the date of the conveyance from NASA.

(2) EFFECT OF RECONVEYANCE BY THE CITY.—If the City of Downey reconveys all or part of the conveyed property during such 20-year period, the city shall pay to the United States an amount equal to the fair market value of the reconveyed property as of the time of the reconveyance, excluding the value of any improvements made to the property by the City.

(3) DETERMINATION OF FAIR MARKET VALUE.—The Administrator of NASA shall determine fair market value in accordance with Federal appraisal standards and procedures.

(4) TREATMENT OF LEASES.—The Administrator of NASA may treat a lease of property within such 20-year period as a reconveyance if the Administrator determines that the lease is being used to avoid application of paragraph (b)(2).

(5) DEPOSIT OF PROCEEDS.—The Administrator of NASA shall deposit any proceeds received under this subsection in the special account established pursuant to section 204(h)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485(h)(2).

(c) The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Administrator. The cost of the survey shall be borne by the City of Downey, California.

(d) The Administrator may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Administrator considers appropriate to protect the interests of the United States.

(e) If the City at any time after the conveyance of the property under subsection (a) notifies the Administrator that the City no longer wishes to retain the property, it may convey the property under the terms of subsection (b), or, it may revert all right, title, and interest in and to the property (including any facilities, equipment, or fixtures conveyed, but excluding the value of any improvements made to the property by the City) to the United States, and the United States shall have the right of immediate entry onto the property.

McCAIN AMENDMENT NO. 5200

Mr. BOND (for Mr. MCCAIN) proposed an amendment to the bill, H.R. 3666, supra; as follows:

At the appropriate place in title II of the bill, insert the following new section:

SEC. 2___. MORTGAGE INSURANCE.

(a) None of the funds appropriated under this Act may be used to give final approval to any proposal to provide mortgage insurance having a value in excess of $250 million for any project financing for which may be guaranteed under section 220 of the National Housing Act (12 U.S.C. 1715k), unless the Secretary has transmitted to the President pro tempore of the Senate and the Speaker of the House the Secretary's justification for such guarantee and no final approval shall be given until the justification has laid before the Congress for a period of not less than 30 days.

BOND (AND MIKULSKI) AMENDMENT NO. 5201

Mr. BOND (for himself and Ms. MIKULSKI) proposed an amendment to the bill, H.R. 3666, supra; as follows:

On page 105, after line 2, insert:

DEPARTMENT OF VETERANS AFFAIRS

VETERANS BENEFITS ADMINISTRATION

COMPENSATION AND PENSIONS

For an additional amount for "Compensation and Pensions", $100,000,000, to be made available upon enactment of this Act, to remain available until expended.

PANAMA BASE RIGHTS NEGOTIATION CONCURRENT RESOLUTION

HELMS AMENDMENT NO. 5202

Mr. FRIST (for Mr. HELMS) proposed an amendment to the concurrent resolution (S.Con.Res. 14) urging the President to negotiate a new base rights agreement with the Government of Panama to permit United States Armed Forces to remain in Panama beyond December 31, 1999; as follows:

Beginning on page 3, line 3, strike all through the period on page 4, line 3, and insert the following:

"(1) The President should negotiate a new base rights agreement with the Government of Panama—

"(A) Taking into account the foregoing findings; and

"(B) consulting with the Congress regarding any bilateral negotiations that take place."

NOTICE OF HEARING

COMMITTEE ON SMALL BUSINESS

Mr. BOND. Mr. President, I wish to announce that the Committee on Small Business will hold a hearing chaired by Senator FRIST entitled "The Impact of Union Salting Campaigns on Small Businesses." The hearing will be held on Tuesday, September 17, 1996, beginning at 9:30 a.m., in room 428A of the Russell Senate Office Building.

For further information please contact Melissa Bailey at 224–5175.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. BOND. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet in executive session at 5 p.m. on Thursday, September 5, 1996, to consider certain pending military nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. BOND. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, September 5, 1996, at 9:30 a.m. to hold an open hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BOND. Mr. President I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, September 5, 1996, at 10:30 and 2 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FORESTS AND PUBLIC LAND MANAGEMENT

Mr. BOND. Mr. President, I ask unanimous consent that the Subcommittee on Forests and Public Land Management of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, September 5, 1996, for purposes of conducting a subcommittee hearing which is scheduled to begin at 2 p.m. The purpose of this hearing is to consider S. 931, to authorize the construction of the Lewis and Clark Rural Water System and to authorize assistance to the Lewis and Clark Rural Water System, Inc., a nonprofit corporation, for the planning and construction of the water supply system, and for other purposes; S. 1564, to amend the Small Reclamation Projects Act of 1956 to authorize the Secretary of the Interior to provide loan guarantee for water supply, conservation, quality, and transmission projects, and for other purposes; S. 1565, to amend the Small Reclamation Projects Act of 1956 and to supplement the Federal Reclamation laws by providing for Federal cooperation in non-Federal projects and for participation by non-Federal agencies in Federal projects; S. 1649, to extend contracts between the Bureau of Reclamation and irrigation districts in Kansas and Nebraska, and for other purposes; S. 1719, to require the Secretary of the Interior to offer to sell to certain public agencies the indebtedness representing the remaining repayment balance of certain Bureau of Reclamation projects in Texas, and for other purposes; S. 1921, to authorize the Secretary of the Interior to transfer certain facilities at the Minidoka project to the Burley Irrigation District; and S. 1986, the "Umatilla River Basin Project Completion Act"; and S. 2015, "To convey certain real property located within the Carlsbad Irrigation District", and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

CATHOLIC SOCIAL SERVICES

• Mr. LEVIN. Mr. President, I rise today to honor the 50th Anniversary of the establishment of Catholic Social Services of Wayne County in Detroit, MI.

During its 50 years, Catholic Social Services of Wayne County has provided

a range of social services to more than 500,000 people in the Detroit metropolitan community. CSSWC is particularly proud of its work for the community's children. It is recognized as one of the largest private child welfare agencies in the State of Michigan. It currently has nearly 400 children in its Foster Care Program and has placed thousands of children in adoptive homes. CSSWC also sponsors the Nation's oldest Foster Grandparent Program.

I know that my Senate colleagues join me in honoring Catholic Social Services of Wayne County on 50 years of providing outstanding service to the community.•

TRIBUTE TO COL. JAMES D. KNEELAND

• Mr. JEFFORDS. Mr. President, on July 17, I flew home to Vermont to attend a funeral service for a man who passed away far too early. His name was Col. James D. Kneeland, a man in the prime of his life and career as a member of the Vermont National Guard. He will be remembered by all those whose lives he touched as a kind, honorable, and compassionate man. His legacy, a lifetime of extraordinary achievement.

Colonel Kneeland had a distinguished military career that began in 1964. In 1968 he received his commission and continued to rise through the ranks of the Army National Guard and was awarded his final promotion to colonel last September. As a National Guardsman and helicopter pilot, Colonel Kneeland was en route to Macedonia when he died unexpectedly. A tragic loss, not only to his family and friends, but to his country.

As I look through Col. Kneeland's long list of awards and decorations, it strikes me that his service was one marked by excellence. However, there is more to this tribute than to speak simply of his military career. Like many Vermonters, Jim had an abiding love of the outdoors and took pleasure in the simpler things, like chopping wood at his camp in Wolcott, or walking through the woods with family and friends. Many will also remember him as a man with a sense of humor who delighted in playing practical jokes and bringing a smile to those around him. I learned a lot about Jim Kneeland as I sat in Building 890, henceforth known as the Col. James D. Kneeland Aviation Facility, and listened as friends and family remembered and celebrated his life. Appropriately, the backdrop for his casket was the last helicopter he flew in, an OH6A Cayuse, as flying was both his occupation and his passion. Nearly 1,000 people came to pay tribute to Colonel Kneeland, some in uniform, some not, but all in tears. As Command Sgt. Maj. Michael Datillio said, Jim Kneeland was not your average officer. He was," an enlisted man's officer." As a retired Naval Reserve Captain, I know of no greater praise.

Retired Gen. Benjamin Day had served with Jim and knew him for several years, both as a fellow officer and as a friend. General Day spoke of Jim fondly, and I was touched by some of his comments:

> Monuments to Jim will not be found in material form . . . rather, Jim's monuments will be in the less tangible, but more important forms such as the indelible and unhesitating friendship that he so generously and readily gave to us all. His legacy to us are those priceless memories of his dry wit, humor, easy handshake and friendly greeting. . . . With Jim there was no pretense, what you saw was exactly what you got. There was no smoke, no mirrors and no gilding the lilly. A handshake on a deal with Jim was as good as gold and a commitment that would be honored. Regardless of the circumstances it was going to be carried out fully and properly. . . . Jim's dedication to his family, friends, God and country knew no limits."

I was pleased to know that the Vermont National Guard has paid further tribute to Colonel Kneeland by naming their helicopter hanger at the Burlington Airport after him. I was personally touched by the loss of Colonel Kneeland as he was the father of Jason Kneeland, a valued member of my staff. My heartfelt sympathy and condolences go out to Jim's wife, Jeannine, to Jason, and to all of Jim's family. He will be truly missed, and remembered by us all.•

UNITED WAY OF GREATER BATTLE CREEK

• Mr. LEVIN. Mr. President, I rise today to honor the United Way of Greater Battle Creek on the 75th anniversary of its founding. In 1921, the Battle Creek Social Service Bureau was founded to raise money for organizations working to meet the health and social needs of area residents. After 75 years of faithful service to the community, it continues to meet its original goals.

The success of the United Way of Greater Battle Creek lies in the dedicated residents and volunteers who have donated their time and resources to improving the quality of life in the community. Over the past 75 years, the United Way has raised and distributed over $75 million in its efforts to help those less fortunate. Over that period, the programs it supports have touched the lives of one out of every four members of the community.

I know my Senate colleagues join me in honoring the United Way of Greater Battle Creek for the extraordinary work it has done over the past 75 years in helping improve the lives of the people in this terrific American community.•

THE INTERNATIONAL NARCOTICS CONTROL ACT OF 1996

• Mr. D'AMATO. Mr. President, I rise in support of a bill, the International Narcotics Control Act of 1996, that was introduced yesterday. S. 2053 is a long overdue bill and I commend my colleague from Iowa for his work on this important legislation. Since 1986, we have had on a law requiring the President to certify that foreign countries are cooperating in the United States efforts to stop the flow of drugs into our borders. This law has not been revised for 10 years so it is critical that these important changes are made to ensure an effective antinarcotics effort.

The Foreign Assistance Act mandates that the President deliver to Congress a list of countries that have been fully cooperating with the United States to stop international drug trafficking as well as those that have failed to cooperate by the 1st of March of each year. The Department of State details the decision in the International Narcotics Control Strategy Report. For those countries that have been decertified, sanctions may be imposed, or a waiver can be given.

But the intent of the original act has been lost. Rather than sanctioning countries that are not cooperating with the United States to halt the flow of illegal drugs, the process has been stifled with other considerations. It is high time for changes to the law.

Timing could not be better. The Substance Abuse and Mental Health Services Administration released the preliminary estimates from the 1995 National Household Survey on Drug Abuse. Let me quote from the initial study,

> The percentage of adolescents (12 to 17 years old) using drugs increased between 1994 and 1995 continuing a trend that began in 1993. In 1992, the rate of past month use among youth age 12 to 17 reached a low of 5.3 percent, the result of a decline from 16.3 percent in 1979. By 1994 the rate had climbed back up to 8.2 percent, and in 1995 it increased again to 10.9 percent.

According to the Community Anti-Drug Coalitions of America,

> overall use of all drugs among this age group rose 78 percent between 1992 and 1995, and 33 percent just between 1994 and 1995. In particular marijuana use among young people is up 105 percent since 1992, and 37 percent between 1994 and 1995. Monthly use of LSD and other hallucinogens is up 183 percent since 1992, and rose 54 percent between 1994 and 1995. Monthly use of cocaine rose 166 percent between 1994 and 1995.

It is clear that the number of teenagers using illicit drugs is rising—and that is unacceptable. After decades of working on reducing drug use, our young people are believing that it is OK to use drugs. The media, and even the administration, are sending signals that a little drug use is OK. It is not. The wrong message has been sent and it is time to change that. Teenagers

must learn the harmful, even deadly, effects of illegal drug use.

The availability of illegal drugs must be curtailed. The best way to diminish accessibility is to stop drugs from crossing our borders. This bill would accomplish that goal.

International drug trafficking can only be halted with the full cooperation of a drug-producing or drug-transit country. It is imperative then, that foreign countries assist in the interdiction and prosecution of those responsible. We should expect this from our allies.

The provisions in the International Narcotics Control Act are comprehensive and tough. If a drug-producing or drug-transit country has failed to cooperate with the United States for 3 consecutive years, then sanctions must be applied. Decertification will no longer be a meaningless label to these countries.

The trade sanctions are particularly important to stopping the international drug trade. Trade sanctions will force the foreign country to sit up and take notice. Far too often, traffickers use legitimate commercial trade to smuggle illicit drugs into this country.

In addition, the administration has been less than forthcoming. Additional reporting requirements and notices to Congress will ensure that the American people are receiving prompt and accurate information.

I am pleased to have worked with my colleagues on this measure and urge my colleagues to support this bill's immediate passage. The communities that are fighting the war on drugs—and our children—deserve nothing less.•

COPE-O'BRIEN CENTER'S 25TH ANNIVERSARY

• Mr. LEVIN. Mr. President, I rise to honor a special organization on the 25th anniversary of its founding. This year the COPE-O'Brien Center celebrates 25 years of outstanding service to Washtenaw County and the State of Michigan.

COPE stands for Center for Occupational and Personalized Education. The center works to address the major problems facing today's youth—high dropout rates, illiteracy, unemployment, substance abuse, and teen pregnancy. At a time when domestic spending is being cut, the COPE-O'Brien Center stands out as a successful, cost-effective program.

This innovative center strives to lessen barriers to employment for young men and women by offering skill training and placement into unsubsidized employment or entry into more advanced vocational and educational programs. The center provides daytime counseling, recreation, and alternative educational services for troubled and needy adolescents. Emergency shelters, foster care, and life skill training are also a part of the program. As an alternative to institutional placement, the program saves money by working with families and the juvenile courts to resolve long-term needs of youngsters.

The COPE-O'Brien Youth Center plays a critical role in offering essential educational and counseling services for at-risk youth in Washtenaw County. The center's accomplishments in meeting the multiple needs of youth for over two decades run deep. It is my pleasure to recognize their many valuable services which enhance the lives of our young people.

I know my Senate colleagues join me in congratulating the COPE-O'Brien center on its 25th anniversary of working with our most valuable resource—our youth.•

TRIBUTE TO HUBBARD FARMS ON THEIR 75TH ANNIVERSARY CELEBRATION

• Mr. SMITH. Mr. President, I rise today to pay tribute to Hubbard Farms Inc. in Walpole, NH, for their 75 years of excellence in serving the poultry industry. For years now, Hubbard Farms has become internationally recognized for their research and development into chicken breeding and hatching. Amazingly, each year Hubbard Farms doubles their worldwide demand for chicken products. This annual profit increase is primarily due to their market-driven and customer-focused research. On the occasion of their 75th anniversary celebration, I applaud Austin, Oliver, and Leslie, the three Hubbard brothers, and all the employees at Hubbard Farms for their invaluable contributions to the national and international poultry industry. Having been raised on my grandparent's farm, I have the utmost admiration for the dedication and hard work of farmers and their families.

Few companies in the United States can trace their origins back to the 1700's and Hubbard Farms is one of them. In 1791, Levi Hubbard settled in the newly founded Walpole area and began working with poultry in addition to his general farming enterprise. Hubbard Farms was founded in 1921 when Ira's son, Oliver, graduated from the University of New Hampshire with one of the first majors in poultry and opened the company's doors. Oliver, who is now 96 years old, began the poultry breeding and hatching operations which have made his company so successful in the international poultry industry. In the 1930's, Oliver even helped develop a new chicken breed called the New Hampshire.

As Hubbard Farms began to experience an increase in sales, Oliver's two brothers, Austin and Leslie, joined the family company. During the 1930's and 1940's their breeding and commercial hatchery operations expanded considerably. As the boiler industry began to grow, the Hubbards produced a large volume of Barred Cross chickens in addition to their purebred New Hampshire chicks.

In the 1950's and 1960's, Hubbard Farms built hatcheries and breeding farms in Statesville, NC, and Hot Springs, AR, and opened an international subsidiary in Belgium. The three Hubbard brothers have enjoyed a steady increase in growth over the years that includes an extensive network of franchise distribution for the production, sale, and delivery of Hubbard meat-breeding stock. These franchise operations are in countries all over the world—Brazil, Equador, Mexico, Taiwan, Malaysia, Indonesia, South Africa, India, and China.

Hubbard Farms was acquired in 1974 by Merck & Co., a leading innovator of health products and is still considered an innovator in poultry genetics. Their company objective is to supply an increasing share of the market with broiler parent stock that consistently outperforms all competitors.

Hubbard Farm's 75-year history is marked by distinction and achievement. In 1973, the company received the President's E-Star Award for Excellence in Exporting from the Secretary of Commerce and Secretary of Agriculture in recognition of their outstanding contributions to the increase of U.S. trade abroad. In addition, Hubbard Farms is one of the largest and most highly respected employers in the town of Walpole. Hubbard Farms has consistently supported Walpole and the surrounding areas for 75 exceptional years.

I am proud to join with other New Hampshire residents in congratulating this longstanding poultry leader. Hubbard Farms is a truly distinct company with their commitment to breeding excellence and their extensive record of achievement. I send my very best wishes on the memorable occasion of their 75th anniversary and wish Oliver, Austin, and Leslie continued years of success at Hubbard Farms.•

IRENE M. AUBERLIN

• Mr. LEVIN. Mr. President, I rise today to honor an incredible woman who has reached the age of 100 years. This is a remarkable moment not only for her longevity but also for the wonderful works her long life has produced. This year marks the 100th birthday of Irene Auberlin. You may not have heard her name before, but her vision and work have touched hundreds of thousands of people the world over.

In 1953, Irene Auberlin saw a television show that changed her life and the lives of countless others around the world. That show was about war-torn Korea and the plight of the many children who were left orphans by the war. In order to assist these children, Mrs.

Auberlin began what would later be known as World Medical Relief of Detroit, MI.

World Medical Relief's mission is to provide donated medical supplies for the benefit and relief of indigent persons throughout the world who are unable to pay for medical and dental care. Over the past 43 years, World Medical Relief has provided three quarters of a billion dollars' worth of excess medical items around the world. World Medical Relief has also expanded its mission to include helping senior citizens who need prescription medicine in the Detroit metropolitan area.

It is a pleasure to rise today and honor the 100th birthday of Irene Auberlin, a woman who has done so much to help so many around the world.•

MILWAUKEE'S CAMPAIGN FOR OUR CHILDREN

• Mr. FEINGOLD. Mr. President, I want to take a few moments to applaud the efforts of the city of Milwaukee, Milwaukee County, the school system, independent foundations, and other organizations for launching the Campaign for Our Children-Milwaukee to combat teen pregnancy. The Campaign For Our Children, Inc., is a private, nonprofit corporation that works in a cooperative effort with communities, schools, and State governments. The Campaign for Our Children is built on two important ideas: responsible behavior and creating opportunities for youth. The program additionally emphasizes mentoring for children after school through private organizations and the public school system.

Much credit for this new program belongs to Milwaukee Alderman Michael Murphy who started the groundwork in Milwaukee, then contacted the national office of the Campaign for Our Children, Inc. based in Maryland for additional assistance. Once the preliminary planning commenced, Alderman Murphy worked on securing financial support for the program, as well as, private and public support in the community. I know that he and those who have worked to make this program a reality are very pleased to see it commence.

President Clinton mentioned a similar program during his 1996 State of the Union Address. At that time the President urged Americans to join together to combat teen pregnancy. Mr. President, as a parent of four children I understand the importance of helping young people become responsible young adults and learning to make the right decisions.

The Campaign for Our Children is designed to be a positive force for Milwaukee and its surrounding communities. This program can help provide young residents of Milwaukee with the opportunity to focus on their goals and interests with positive role models. We should use programs such as these with an emphasis on self-reliance and self-responsibility.

I commend Campaign for Our Children-Milwaukee and wish them success for many years to come.•

TRIBUTE TO RUTH YOUNG WATT

• Mr. COHEN. Mr. President, earlier this year the Senate family lost one of its own, Ruth Young Watt, the former chief clerk of the Senate Permanent Subcommittee on Investigations of the Governmental Affairs Committee, who passed away peacefully on June 16, 1996.

Ruth's Senate career spanned 32 years. Beginning as the clerk of the Special Committee to Investigate the National Defense Program for Senator Owen Brewster of Maine, Ruth later became the chief clerk of the Senate Permanent Subcommittee on Investigations of the Government Affairs Committee where she worked for 31 years. Ruth also served as chief clerk of the Senate Select Committee on Improper Activities in Labor-Management Relations from 1957 until 1960.

Ruth gave herself and her time to all who asked. People who turned to Ruth Watt knew they were hard and that she would do her best. As chief clerk she played an integral role in the committee; without her, operations would not have run as smoothly and succinctly as they did under her care.

Ruth was a remarkable woman who dedicated all of her life to public service. I commend her commitment to her country, to her coworkers and to her family.

On behalf of the Senate family, I extend my condolences to Ruth's siblings, Richard Young, Frances Lilly, and Kathryn Woods. Our prayers and our thoughts are with them.•

NATIONAL PHILANTHROPY DAY

• Mr. LEVIN. Mr. President, I rise today to honor National Philanthropy Day which will be observed on November 12, 1996. Each year on this day, the Nation recognizes the outstanding contributions that nonprofit philanthropic organizations make to our communities.

There are presently more than 800,000 philanthropic organizations in the United States, employing approximately 10,000,000 people. These organizations and individuals give their time, talent, and resources to the important causes that can improve our communities. Without their extraordinary efforts, many of our Nation's dreams for a better tomorrow would not come true.

I know my Senate colleagues join me in honoring the organizations and individuals who make so many worthwhile causes in our country successful.•

SENATE QUARTERLY MAIL COSTS

• Mr. WARNER. Mr. President, in accordance with section 318 of Public Law 101–520 as amended by Public Law 103–283, I am submitting the frank mail allocations made to each Senator from the appropriation for official mail expenses and a summary tabulation of Senate mass mail costs for the third quarter of fiscal year 1996 to be printed in the RECORD. The third quarter of fiscal year 1996 covers the period of April 1, 1996, through June 30, 1996. The official mail allocations are available for frank mail costs, as stipulated in Public Law 104–53, the Legislative Branch Appropriations Act for fiscal year 1996.

The material follows:

SENATE QUARTERLY MASS MAIL VOLUMES AND COSTS FOR THE QUARTER ENDING 06/30/96

Senators	Total pieces	Pieces per capita	Total cost	Cost per capita	FY 96 official mail allocation
Abraham	0	0.00000	$0.00	$0.00000	$160,875
Akaka	0	0.00000	0.00	0.00000	48,447
Ashcroft	0	0.00000	0.00	0.00000	109,629
Baucus	39,200	0.04757	9,573.73	0.01162	46,822
Bennett	0	0.00000	0.00	0.00000	56,493
Biden	0	0.00000	0.00	0.00000	44,754
Bingaman	0	0.00000	0.00	0.00000	56,404
Bond	0	0.00000	0.00	0.00000	109,629
Boxer	996	0.00003	307.53	0.00001	433,718
Bradley	0	0.00000	0.00	0.00000	139,706
Breaux	0	0.00000	0.00	0.00000	92,701
Brown	0	0.00000	0.00	0.00000	86,750
Bryan	0	0.00000	0.00	0.00000	56,208
Bumpers	0	0.00000	0.00	0.00000	69,809
Burns	0	0.00000	0.00	0.00000	46,822
Byrd	0	0.00000	0.00	0.00000	59,003
Campbell	0	0.00000	0.00	0.00000	86,750
Chafee	0	0.00000	0.00	0.00000	48,698
Coats	0	0.00000	0.00	0.00000	112,682
Cochran	0	0.00000	0.00	0.00000	69,473
Cohen	0	0.00000	0.00	0.00000	52,134
Conrad	0	0.00000	0.00	0.00000	43,403
Coverdell	0	0.00000	0.00	0.00000	131,465
Craig	1,159	0.00109	954.94	0.00089	49,706
D'Amato	0	0.00000	0.00	0.00000	262,927
Daschle	0	0.00000	0.00	0.00000	44,228
DeWine	800	0.00007	231.54	0.00002	186,314
Dodd	0	0.00000	0.00	0.00000	80,388
Dole	0	0.00000	0.00	0.00000	70,459
Domenici	4,400	0.00278	955.05	0.00060	56,404
Dorgan	4,600	0.00723	854.27	0.00134	43,403
Exon	0	0.00000	0.00	0.00000	57,167
Faircloth	0	0.00000	0.00	0.00000	134,344
Feingold	0	0.00000	0.00	0.00000	102,412
Feinstein	0	0.00000	0.00	0.00000	433,718
Ford	0	0.00000	0.00	0.00000	86,009
Frist	0	0.00000	0.00	0.00000	106,658
Glenn	0	0.00000	0.00	0.00000	186,314
Gorton	97,175	0.01892	21,691.11	0.00422	109,059
Graham	0	0.00000	0.00	0.00000	259,426
Gramm	2,050	0.00012	763.40	0.00004	281,361
Grams	22,218	0.00496	7,237.05	0.00162	96,024
Grassley	0	0.00000	0.00	0.00000	73,403
Gregg	0	0.00000	0.00	0.00000	50,569
Harkin	0	0.00000	0.00	0.00000	73,403
Hatch	0	0.00000	0.00	0.00000	56,493
Hatfield	0	0.00000	0.00	0.00000	78,163
Heflin	0	0.00000	0.00	0.00000	89,144
Helms	0	0.00000	0.00	0.00000	134,344
Hollings	0	0.00000	0.00	0.00000	85,277
Hutchison	0	0.00000	0.00	0.00000	281,361
Inhofe	0	0.00000	0.00	0.00000	82,695
Inouye	0	0.00000	0.00	0.00000	48,447
Jeffords	0	0.00000	0.00	0.00000	42,858
Johnston	0	0.00000	0.00	0.00000	92,701
Kassebaum	0	0.00000	0.00	0.00000	70,459
Kempthorne	0	0.00000	0.00	0.00000	49,706
Kennedy	0	0.00000	0.00	0.00000	117,964
Kerrey	0	0.00000	0.00	0.00000	57,167
Kerry	0	0.00000	0.00	0.00000	117,964
Kohl	0	0.00000	0.00	0.00000	102,412
Kyl	0	0.00000	0.00	0.00000	93,047
Lautenberg	1,133	0.00015	930.82	0.00012	139,706
Leahy	5,066	0.00889	1,019.63	0.00179	42,858
Levin	0	0.00000	0.00	0.00000	160,875
Lieberman	0	0.00000	0.00	0.00000	80,388
Lott	0	0.00000	0.00	0.00000	69,473
Lugar	0	0.00000	0.00	0.00000	112,682
Mack	0	0.00000	0.00	0.00000	259,426
McCain	0	0.00000	0.00	0.00000	93,047
McConnell	0	0.00000	0.00	0.00000	86,009
Mikulski	0	0.00000	0.00	0.00000	101,272
Moseley-Braun	570	0.00005	475.38	0.00004	184,773
Moynihan	4,825	0.00027	1,031.54	0.00006	262,927

SENATE QUARTERLY MASS MAIL VOLUMES AND COSTS FOR THE QUARTER ENDING 06/30/96—Continued

Senators	Total pieces	Pieces per capita	Total cost	Cost per capita	FY 96 official mail allocation
Murkowski	0	0.00000	0.00	0.00000	42,565
Murray	15,300	0.00298	3,233.45	0.00063	109,059
Nickles	0	0.00000	0.00	0.00000	82,695
Nunn	0	0.00000	0.00	0.00000	131,465
Pell	0	0.00000	0.00	0.00000	48,698
Pressler	0	0.00000	0.00	0.00000	44,228
Pryor	0	0.00000	0.00	0.00000	69,809
Reid	0	0.00000	0.00	0.00000	56,208
Robb	0	0.00000	0.00	0.00000	121,897
Rockefeller	0	0.00000	0.00	0.00000	59,003
Roth	0	0.00000	0.00	0.00000	44,754
Santorum	0	0.00000	0.00	0.00000	199,085
Sarbanes	6,250	0.00127	1,329.36	0.00027	101,272
Shelby	0	0.00000	0.00	0.00000	89,144
Simon	1,965	0.00017	523.50	0.00005	184,773
Simpson	0	0.00000	0.00	0.00000	41,633
Smith	2,885	0.00260	2,347.92	0.00211	50,569
Snowe	0	0.00000	0.00	0.00000	52,134
Specter	0	0.00000	0.00	0.00000	199,085
Stevens	163,119	0.27789	39,388.75	0.06710	42,565
Thomas	628	0.00135	155.86	0.00033	41,633
Thompson	0	0.00000	0.00	0.00000	106,658
Thurmond	0	0.00000	0.00	0.00000	85,277
Warner	2,709	0.00042	863.90	0.00014	121,897
Wellstone	0	0.00000	0.00	0.00000	96,024
Wyden	0	0.00000	0.00	0.00000	52,135•

DETROIT CONCERT CHOIR

• Mr. LEVIN. Mr. President, I rise to honor the Detroit Concert Choir for winning top honors as Choir of the World at the Llangollen International Musical Eisteddfod in north Wales. The 50-year-old festival is considered the ultimate in vocal music competitions, and in the past has featured artists such as Luciano Pavarotti and Placido Domingo. The 70-voice choir competed against 80 choirs representing 40 countries. The Detroit group won first place for mixed ensemble, second-place honors for men's chorus, a third place for men's folk and a fourth place for women's ensemble. Their combined score from all the competitions earned a spot in the finals. There they represented the United States against choirs from Hungary, Denmark and Wales. A seven member panel voted the Detroit Concert Choir the best among the competitors and awarded them a large bronze trophy and the title of Choir of the World. The choir impressed the judges by signing in five languages—English, Aruban, Portugese, Russian and Latin. After winning the competition, the choir honored the festival and their hosts by performing the Welsh national anthem and "God Save the Queen." I know my Senate colleagues join me in honoring the extraordinary achievement of the Detroit Concert Choir in bringing home top honors at the Llangollen International Musical Eisteddfod. The members have made the State of Michigan and the entire Nation proud.•

NATIONAL MUSEUM OF THE AMERICAN INDIAN ACT AMENDMENTS OF 1996

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 564, S. 1970.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1970) to amend the National Museum of the American Indian Act to make improvements in the Act, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. MCCAIN. Mr. President, I wish to thank my colleagues for voting to adopt S. 1970, a bill to amend the National Museum of the American Indian Act [NMAIA]. This legislation is intended to codify existing policies and procedures practiced by the National Museum of the American Indian and the National Museum of Natural History and to amend the act so that its repatriation requirements are consistent with the requirements of the Native American Graves Protection and Repatriation Act [NAGPRA]. The overriding purpose of this legislation is to ensure that the requirements for the inventory, identification, and return of Indian human remains and Indian funerary objects in the possession of the Smithsonian Institution are being carried out and that the remains and funerary objects are being returned to their rightful keepers and protectors the Indian tribes.

The possession of Indian human remains and associated funerary objects by non-Indians has been a contentious issue for Indian tribes and Indian organizations for many years. In order to bring about a satisfactory resolution to these issues and to create a respectful dialog between the parties, Congress enacted the Native American Graves Protection and Repatriation Act and the National Museum of the American Indian Act. In the years since its passage, the Smithsonian Institution has worked diligently to fulfill the mandates of both the NAGPRA and the NMAIA. Both the National Museum of the American Indian and the National Museum of Natural History employ written policies that are consistent with the spirit and intent of NAGPRA.

S. 1970 will ensure that these policies are consistent with the requirements of NAGPRA by establishing additional procedures and deadlines for the completion of the Smithsonian's repatriation mandates. It mandates that a simple inventory of the remains and objects in the Smithsonian's possession be completed by June 1, 1998, and that a written summary of all unassociated funerary objects, sacred objects, and objects of cultural patrimony in its possession be completed by December 31, 1996. Second, S. 1970 requires that the Smithsonian notify and return expeditiously all unassociated funerary objects, sacred objects, or objects of cultural patrimony to the appropriate individual, Indian tribe, or Native Hawaiian organization. In order to facilitate the repatriation process, the bill increases the membership of the repatriation committee and requires that two members be "traditional Indian religious elders." Finally, this legislation allows the Smithsonian the flexibility to go beyond the Act's minimum requirements in returning the funerary and sacred objects and remains to Indian people.

Mr. President, I would like to express my deep appreciation for the hard work and dedication of representatives of the Smithsonian who have cooperated tremendously in the preparation of this legislation and who have continued to demonstrate their serious commitment to returning these sacred remains and objects to their rightful owners the Indian tribes. Finally, I would like to express my personal thanks for the tireless work of Senator INOUYE in making the National Museum of the American Indian a reality and for his efforts on behalf of this legislation. I thank my colleagues for their support of S. 1970.

Mr. FRIST. Mr. President, I ask unanimous consent that the bill be deemed read the third time, passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1970) was deemed read the third time, and passed, as follows:

S. 1970

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE: REFERENCES.

(a) SHORT TITLE.—This Act may be cited as the "National Museum of the American Indian Act Amendments of 1996".

(b) REFERENCES.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of the National Museum of the American Indian Act (20 U.S.C. 80q et seq.).

SEC. 2. BOARD OF TRUSTEES.

Section 5(f)(1)(B) (20 U.S.C. 80q–3(f)(1)(B)) is amended by striking "an Assistant Secretary" and inserting "a senior official".

SEC. 3. INVENTORY.

(a) IN GENERAL.—Section 11(a) (20 U.S.C. 80q–9(a)) is amended—

(1) by striking "(1)" and inserting "(A)";

(2) by striking "(2)" and inserting "(B)";

(3) by inserting "(1)" before "The Secretary"; and

(4) by adding at the end the following new paragraphs:

"(2) The inventory made by the Secretary of the Smithsonian Institution under paragraph (1) shall be completed not later than June 1, 1998.

"(3) For purposes of this subsection, the term 'inventory' means a simple, itemized list that, to the extent practicable, identifies, based upon available information held by the Smithsonian Institution, the geographic and cultural affiliation of the remains and objects referred to in paragraph (1).".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 11(f) (20 U.S.C. 80q–9(f)) is amended by striking "to carry out this section" and inserting "to carry out this section and section 11A".

SEC. 4. SUMMARY AND REPATRIATION OF UNASSOCIATED FUNERARY OBJECTS, SACRED OBJECTS, AND CULTURAL PATRIMONY.

The National Museum of the American Indian Act (20 U.S.C. 80q et seq.) is amended by inserting after section 11 the following new section:

"SEC. 11A. SUMMARY AND REPATRIATION OF UNASSOCIATED FUNERARY OBJECTS, SACRED OBJECTS, AND CULTURAL PATRIMONY.

"(a) SUMMARY.—Not later than December 31, 1996, the Secretary of the Smithsonian Institution shall provide a written summary that contains a summary of unassociated funerary objects, sacred objects, and objects of cultural patrimony (as those terms are defined in subparagraphs (B), (C), and (D), respectively, of section 2(3) of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001(3)), based upon available information held by the Smithsonian Institution. The summary required under this section shall include, at a minimum, the information required under section 6 of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3004).

"(b) REPATRIATION.—Where cultural affiliation of Native American unassociated funerary objects, sacred objects, and objects of cultural patrimony has been established in the summary prepared pursuant to subsection (a), or where a requesting Indian tribe or Native Hawaiian organization can show cultural affiliation by a preponderance of the evidence based upon geographical, kinship, biological, archaeological, anthropological, linguistic, folkloric, oral traditional, historical, or other relevant information or expert opinion, then the Smithsonian Institution shall expeditiously return such unassociated funerary object, sacred object, or object of cultural patrimony where—

"(1) the requesting party is the direct lineal descendant of an individual who owned the unassociated funerary object or sacred object;

"(2) the requesting Indian tribe or Native Hawaiian organization can show that the object was owned or controlled by the Indian tribe or Native Hawaiian organization; or

"(3) the requesting Indian tribe or Native Hawaiian organization can show that the unassociated funerary object or sacred object was owned or controlled by a member thereof, provided that in the case where an unassociated funerary object or sacred object was owned by a member thereof, there are no identifiable lineal descendants of said member or the lineal descendants, upon notice, have failed to make a claim for the object.

"(c) STANDARD OF REPATRIATION.—If a known lineal descendant or an Indian tribe or Native Hawaiian organization requests the return of Native American unassociated funerary objects, sacred objects, or objects of cultural patrimony pursuant to this Act and presents evidence which, if standing alone before the introduction of evidence to the contrary, would support a finding that the Smithsonian Institution did not have the right of possession, then the Smithsonian Institution shall return such objects unless it can overcome such inference and prove that it has a right of possession to the objects.

"(d) MUSEUM OBLIGATION.—Any museum of the Smithsonian Institution which repatriates any item in good faith pursuant to this Act shall not be liable for claims by an aggrieved party or for claims of fiduciary duty, public trust, or violations of applicable law that are inconsistent with the provisions of this Act.

"(e) STATUTORY CONSTRUCTION.—Nothing in this section may be construed to prevent the Secretary of the Smithsonian Institution, with respect to any museum of the Smithsonian Institution, with respect to any museum of the Smithsonian Institution, from making an inventory or preparing a written summary or carrying out the repatriation of unassociated funerary objects, sacred objects, or objects of cultural patrimony in a manner that exceeds the requirements of this Act.

"(f) NATIVE HAWAIIAN ORGANIZATION DEFINED.—For purposes of this section, the term 'Native Hawaiian organization' has the meaning provided that term in section 2(11) of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001(11)).".

SEC. 5. SPECIAL COMMITTEE.

Section 12 (20 U.S.C. 80q–10) is amended—

(1) in the first sentence of subsection (a), by inserting "and unassociated funerary objects, sacred objects, and objects of cultural patrimony under section 11A" before the period; and

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking "five" and inserting "7";

(B) in paragraph (1)—

(i) by striking "three" and inserting "4"; and

(ii) by striking "and" at the end;

(C) by redesignating paragraph (2) as paragraph (3); and

(D) by inserting after paragraph (1) the following:

"(2) at least 2 members shall be traditional Indian religious leaders; and".

OLDER AMERICANS INDIAN TECHNICAL AMENDMENTS ACT

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 569, S. 1972.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1972) to amend the Older Americans Act of 1965 to improve the provisions relating to Indians, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. MCCAIN. Mr. President, I wish to thank my colleagues for voting to adopt S. 1972, a bill to amend the Older Americans Act. S. 1972 makes technical corrections to the Act to clarify and improve the provisions relating to older Native Americans.

Mr. President, many older Native Americans have benefited from programs authorized under the Older Americans Act. Indian tribes have provided much needed home-based care, meals and services to elderly tribal members living on Indian reservations and in nearby communities. In most cases, older Native Americans live in remote and isolated communities with little or no access to a grocery store, telephone, health care and other important services. Through the Older Americans Act, nutrition and support services can be provided to older Native Americans in their homes and communities on a daily basis.

However, many of these services can be strengthened to ensure that Indian tribes are able to tailor nutritional and supportive programs to the cultural and geographic characteristics of their communities. Often, employment and nutrition programs are difficult to administer in Indian country because of the remoteness of the service area and the unique character of Indian cultures. The changes in S. 1972 will ensure that Indian tribes and tribal organizations serving Native American elders will be afforded maximum flexibility in administering employment and nutrition programs to ensure that they are appropriate to the unique characteristics of the Indian communities.

Mr. President, I have proposed a minor technical change to the bill as it was reported in the Committee on Indian Affairs. This amendment to Section 2 of the bill is necessary to clarify that the proposed change to the definition of "reservation" will not alter any existing eligibility for Indians living near an Indian reservation.

Mr. President, I wish to express my appreciation to Senators INOUYE and STEVENS, who joined me in sponsoring this legislation and my colleagues in the Senate who voted to pass S. 1972. This Act will bring us closer to meeting the goals of the Older Americans Act to ensure that older Native Americans will continue to benefit from the services provided by the Act.

Mr. FRIST. Mr. President, I ask unanimous consent that the bill be deemed read the third time, passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1972) was deemed read the third time, and passed.

(The text of the bill will be printed in a future edition of the RECORD.)

PANAMA NEW BASE RIGHTS NEGOTIATIONS

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate turn to the immediate consideration of calendar No. 268, S. Con. Res. 14.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 14) urging the President to negotiate a new base rights agreement with government of Panama to permit United States Armed Forces to remain in Panama beyond December 31, 1999.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

AMENDMENT NO. 5202

Mr. FRIST. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Tennessee [Mr. FRIST], for Mr. HELMS, proposes an amendment numbered 5202.

Mr. FRIST. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning on page 3, line 3, strike all through the period on page 4, line 3, and insert the following:

(1) The President should negotiate a new base rights agreement with the Government of Panama—

(A) taking into account the foregoing findings; and

(B) consulting with the Congress regarding any bilateral negotiations that take place.

Mr. HELMS. Mr. President, I do hope the Senate will approve this resolution urging the President to negotiate an agreement with Panama to permit United States Armed Forces to maintain a presence in that country beyond the year 2000.

The Panama Canal treaties state that unless we pursue an agreement with Panama, the United States military must complete the withdrawal of its forces from Panama by the date. Imagine, if you can, the U.S. flag coming down for the last time on December 31, 1999—ending a special and unique relationship that has lasted almost a century. This must not be allowed to happen.

The Panama Canal treaties provide for a continued United States military presence—if both parties express an interest.

I feel strongly that it is in the best interests of both the United States and Panama to maintain a United States military presence in Panama. United States forces in Panama help promote stable democracies throughout the region and serve as a critical component for United States counter-drug monitoring and interdiction efforts. Without question, United States forces offer the best protection for the Panama Canal. If the United States leaves, the canal will be left literally undefended.

Although the United States is engaged in a drawdown of our forces, both overseas and in the United States, there are, nevertheless, more than 135,000 United States troops remaining in Europe and almost 100,000 in the Pacific. By early 1998, fewer than 6,000 troops will remain in Panama—that is, basically 6,000 troops for the entire hemisphere. If total United States military withdrawal from Panama were to be allowed to happen, this nation will be left with no major military presence in the region.

Mr. President, I have had a number of meetings with Panamanians. They want us to stay. Polls in Panama show that about 75 percent of Panamanians want the United States to maintain military forces there beyond the year 2000. It is time to negotiate a new base rights agreement. Congress should urge the President to negotiate a continued United States military presence in Panama. The House of Representatives approved this resolution in June 1995; and it was voted out of the Senate Foreign Relations Committee unanimously in December 1995. Now is the time to pursue an agreement with Panama.

Mr. FRIST. Mr. President, I ask unanimous consent that the amendment be considered agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 5202) was agreed to.

The concurrent resolution was agreed to.

The preamble was agreed to.

The concurrent resolution (S. Con Res. 14), with its preamble, is as follows:

S. CON. RES. 14

Whereas the Panama Canal is a vital strategic asset to the United States, its allies, and the world;

Whereas the Treaty on the Permanent Neutrality and Operation of the Panama Canal signed on September 7, 1977, provides that Panama and the United States have the responsibility to assure that the Panama Canal will remain open and secure;

Whereas such Treaty also provides that each of the two countries shall, in accordance with their respective constitutional processes, defend the Canal against any threat to the regime of neutrality, and consequently shall have the right to act against any aggression or threat directed against the Canal or against the peaceful transit of vessels through the Canal;

Whereas the United States instrument of ratification of such Treaty includes specific language that the two countries should consider negotiating future arrangements or agreements to maintain military forces necessary to fulfill the responsibility of the two countries of maintaining the neutrality of the Canal after 1999;

Whereas the Government of Panama, in the bilateral Protocol of Exchange of instruments of ratification, expressly "agreed upon" such arrangements or agreements;

Whereas the Navy depends upon the Panama Canal for rapid transit in times of emergency, as demonstrated during World War II, the Korean War, the Vietnam conflict, the Cuban Missile Crisis, and the Persian Gulf conflict;

Whereas drug trafficking and money laundering has proliferated in the Western Hemisphere since the Treaty on the Permanent Neutrality and Operation of the Panama Canal was signed on September 7, 1977, and such trafficking and laundering poses a grave threat to peace and security in the region;

Whereas certain facilities now utilized by the United States Armed Forces in Panama are critical to combat the trade in illegal drugs;

Whereas the United States and Panama share common policy goals such as strengthening democracy, expanding economic trade, and combating illegal narcotics throughout Latin America;

Whereas the Government of Panama has dissolved its military forces and has maintained only a civilian police organization to defend the Panama Canal against aggression; and

Whereas certain public opinion polls in Panama suggest that many Panamanians desire a continued United States military presence in Panama: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) the President should negotiate a new base rights agreement with the Government of Panama—

(A) taking into account the foregoing findings; and

(B) consulting with the Congress regarding any bilateral negotiations that take place.

SEC. 2. The Secretary of the Senate shall transmit a copy of this concurrent resolution to the President.

ORDERS FOR FRIDAY, SEPTEMBER 6, 1996

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 9:30 a.m. on Friday, September 6; further, that immediately following the prayer, the Journal of the proceedings be deemed approved to date, the morning hour be deemed to have expired, and the time for two leaders be reserved for their use later in the day, and the Senate then proceed, under the order, to the consideration of the Employment Discrimination Bill; I further ask unanimous consent that at 12:30, immediately following the debate on the KENNEDY bill, there then be a period for morning business with Senators to speak therein for up to 5 minutes each, with the time from 12:30 to 1:30 under the control of Senator COVERDELL or his designee, and the time from 1:30 to 2:30 under the control of Senator DASCHLE or his designee.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. FRIST. For the information of all Members, tomorrow morning, the Senate will begin 3 hours of debate on the Kennedy Employment Discrimination Bill, which was placed on the calendar this evening. There will be no rollcall votes during Friday's session.

Following the period for morning business, the Senate will adjourn over until Monday. During Monday's session, the Senate will debate the defense authorization conference report. However, no votes will occur during Monday's session.

On Tuesday, the Senate will debate the Defense of Marriage Act for 3 hours prior to the policy conference recess. At 2:15 on Tuesday, the Senate will vote on the defense authorization conference report, to be followed by a vote on the Defense of Marriage Act, and following an additional 30 minutes of debate and vote on the Kennedy bill. The Senate will then begin consideration of the Treasury-Postal Appropriations bill. All Senators should therefore be on notice that the next rollcall votes will begin at 2:15 on Tuesday.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. FRIST. Mr. President, if there is no further business to come before the Senate tonight, I ask that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 11:17 p.m., adjourned until Friday, September 6, 1996, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate September 5, 1996:

THE JUDICIARY

DONALD M. MIDDLEBROOKS, OF FLORIDA, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF FLORIDA VICE JAMES W. KEHOE, RETIRED.